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CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES
UNDER ARTICLE 18 OF THE CONVENTION

Initial reports of States Parties

# EL SALVADOR

V. 83-63628 (EX)

The Government of El Salvador, as a State Party to the Convention, and in compliance with the provisions of article 18 of the Convention, wishes to present to the Secretary-General of the United Nations this report on the legislative, judicial, administrative or other measures adopted in relation with the provisions of articles 2 to 16 of the Convention.

Article 2 of the Convention

(a) In Salvadorian constitutional law there is what is called "The System of Constitutional Rights"; in the first article of the relevant Title it is provided that:

Article 150. "All men are equal before the law. No restrictions based on differences of nationality, race, sex or religion may be established for the enjoyment of civil rights."

"No hereditary offices or privileges are recognized."

By raising this rule to constitutional status, the maximum protection is given to the principle of equality, since, under the Salvadorian system, the Constitution is the supreme law of the State and prevails over all other laws.

In practice, this principle is not only embodied in the Constitution but is also included in all secondary legislation in effect in our country.

(b) In our legislation there are no measures that explicitly prohibit discrimination against women. However, from article 150, to which we have referred above, it is clear that discrimination on grounds of sex is prohibited.

Article 25 of the Civil Code defines the following concepts: "The words man, person, child, adult and other similar words, which in their general sense are applied to individuals of the human species, without distinction of sex, shall be understood to include both sexes in the provisions of laws, unless the provision is by its nature manifestly limited to one sex only.

On the other hand, the words woman, girl, widow and other similar words that designate the female sex shall not be applied to the other sex unless the law explicitly extends them to cover that sex."

(c) In Salvadorian legislation there are no specific sanctions in line with the provisions of this subparagraph to cover cases in which one of the rights conferred specifically on women is violated, since legal equality is a constitutional rule.

When a right is violated, a woman has all the remedies that the law recognizes for individuals in general.

(c-d) In our country, the authorities and public and private institutions make no distinction or discrimination based on the fact of a woman's sex with regard to the enjoyment of the rights and privileges granted by the law.

(f) As has already been pointed out, legal equality being the general rule, no laws have been passed exclusively for women, but the law is applicable to all.

If a woman believes that an arbitrary act has been committed against her person or against any of the rights inherent in her person, she may have recourse to the remedies that the law has established in such cases, that is to say, apply to the courts or request administrative remedies, according to the circumstances.

(g) With regard to this subparagraph, it is necessary to state that in the penal sphere there are indeed some provisions which, if not discriminatory, at least establish different treatment for men and women, the latter being treated more strictly than men. A clear example of the above is the text of article 265 on adultery, which establishes:

Article 265. "Six months to two years of imprisonment shall be imposed on:

1. A married woman who has sexual intercourse with a man who is not her husband, and on a man who has sexual intercourse with her, knowing that she is married.

2. A married man who has a concubine and shows contempt for his spouse or for morals or fails to fulfil his obligations to assist his family, and on the concubine.

This is one instance under Salvadorian penal law of discriminatory treatment against women. It should be pointed out that there are other types of offences covered by the Penal Code in which the offender can only be a woman, but this does not constitute discriminatory treatment, in view of the very nature of the offence. Such are the offences of abortion, article 161; homicide, with extenuating circumstances, article 155; false allegation of pregnancy or birth, article 247; abandonment, especially if there are extenuating circumstances, article 178 (Annex I).

Article 3 of the Convention

The Government of El Salvador, being aware that population growth and the paucity of its resources constitute a very serious problem, approved in the Council of Ministers on 30 October 1974 a document on a "Comprehensive Population Policy"; one of the specific objectives stressed is "To increase the participation of women in the development process, to raise their socio-cultural status and contribute towards consolidation of the family group. Through the comprehensive population policy, the aim is to integrate women in the general activities implied by development and to bring about an improvement in their social, economic and cultural status". The same document states that the creation of greater employment opportunities for women, the elimination of socio-cultural and wage discrimination constitute areas in which a solution must be found as quickly as possible.

Along the same lines, 1975 was declared as International Women's Year in El Salvador and various activities intended to promote the cause of women were carried out in that year.

For several years, there has been a Co-operation Committee for IACW in El Salvador in the framework of the Inter-American Commission of Women; one of the principal objectives of the Co-operation Committee is to promote the participation and advancement of women in El Salvador.

Article 4 of the Convention

1. No temporary measures aimed at accelerating the achievement of equality between men and women have been adopted recently, since for a number of decades, the principle of non-discrimination on grounds of sex has prevailed in our Constitution.

2. In fact, our labour law establishes certain privileges or guarantees for pregnant women, so that a pregnant woman enjoys security of employment from the beginning of her pregnancy until the end of the post-natal period of leave.

Art. 183 of the Political Constitution provides that:

"Working women shall be entitled to paid leave before and after confinement and to retention of employment."

Specifically, this question is regulated more explicitly in articles 110 to 113 of the Labour Code:

"Work performed by women:

Article 110. Employers are forbidden to assign pregnant women to work that requires physical effort incompatible with their condition.

Such work is presumed to be incompatible with the condition of pregnancy after the fourth month of pregnancy. (1)

Article 111. The condition of pregnancy is full justification for transferring a woman to a different post in the same establishment when her normal work consists in dealing directly with the public. Such transfer may be made by order of the employer or at the request of the worker concerned.

Article 112. After the end of her post-natal leave, a woman worker is entitled to return to the post that she filled before her pregnancy.

Article 113. As soon as pregnancy begins and until the end of post-natal leave , de facto dismissal or dismissal for previous express cause shall not lead to the termination of a female worker's contract unless the cause of such dismissal predates the pregnancy; however, even in the latter case, dismissal shall not take effect until immediately after the end of the above-mentioned period of leave."

However, in no way can these measures be considered discriminatory.

Article 5 of the Convention

(a) El Salvador, being aware that it is necessary to change socio-cultural patterns in the population in order to eliminate prejudice regarding the superiority or inferiority of the sexes, provides in the previously mentioned document "Comprehensive Population Policy":

"That the need therefore arises to establish mechanisms for the creation of opportunities for socio-cultural advancement that would promote a rise in the educational level of women.

Every day women acquire greater responsibility at the executive and decision-making levels in activities within the different strata of society.

In our country we find attitudes and behaviour on the part of the majority of the population that reflect traditional cultural patterns. One

effect of the earlier situation is irresponsible paternity, which obliges the woman to care for the household and prevents her from enjoying the fruits of progress."

(b) For the purpose of providing family education there are within the Office of the Attorney for the Poor assistance programmes for women; similarly, the "Women's Office" operates within that institution, one of its main functions being to direct and channel assistance to women in their duties as mothers. Owing to our country's present situation, the phenomenon of the voluntary surrender of children for adoption has emerged in recent years, so that the Attorney's Office is deeply concerned and is trying as far as possible to arouse awareness among the mothers in question.

Family counselling programmes have been set up and are directed towards families in marginal areas with the aim of emphasizing the responsibility of parents in the education of their children.

The Government of El Salvador, being aware of the importance of the family nucleus in the upbringing of children, and in the inter-American context, as a State member of the Inter-American Commission of Women and in support of a resolution of that body, decreed 1983 as "Inter-American Women's Year"; the IACW Co-operation Committee in El Salvador has carried out several activities such as holding seminars on the family that are intended to highlight the obligations and responsibilities of parents within the family.

Article 6 of the Convention

In Salvadorian legislation, prostitution is not defined as a separate offence per se, but special cases in which the exploitation of prostitution is punished are indeed regulated under the Penal Code, article 210 pn providing that:

"Any person who derives his maintenance even partially from a person who exercises prostitution, exploiting the proceeds of this profession, shall be punished by imprisonment for one to three years."

Similarly, article 209 of the Penal Code defines an offence, with the aim of protecting women.

Article 209. Aiding and abetting prostitution.

"Any person who engages openly or covertly in supporting, administering or controlling a brothel or habitually engages in facilitating the

prostitution of women under the age of 16 shall be punished with imprisonment for one to three years." There is also an article in the Penal Code that punishes rape of a prostitute.

Article 196. "The rape of a women who engages in prostitution shall be punished with imprisonment for three months to two years."

PART II

Article 7 of the Convention

In El Salvador women now enjoy the same civil and political rights as men, as is established by article 23 of the Political Constitution, which provides that:

"All Salvadorians above the age of 18 are citizens, without distinction of sex."

Article 24. "Suffrage is a right and duty of citizens, except in those cases specified in this Constitution.

The following are citizens' rights: To associate with one another to constitute political parties in accordance with the law and to join parties already constituted; to apply for public office according to their abilities, and the other rights recognized by the laws.

The following are citizens' duties: To comply with the Constitution of the Republic and to ensure that it is complied with and to serve the State according to the laws."

However, this was not always the case and it was not until 1950 that women's status was equated with that of men.

When we speak of equality, we are referring to the fact that, throughout the history of El Salvador, women have gradually been acquiring and achieving legal equality; for instance, female suffrage was dealt with for the first time in 1939, when it was stated that: "The exercise of the right of suffrage by women shall be regulated in electoral law."

The acquisition of this right was something of a paradox, since during that period not even men were able to vote, because El Salvador was under the dictatorship of General Maximiliano Hernández Martínez, which lasted 13 years, during which period elections were not held every five years, as ordered by law.

At that time, the qualifications authorizing a woman to vote were as follows:

"If the person who wishes to be authorized is of the female sex, she must produce not only her identity documents but also the following: if she is married, proof of her marital status by means of the corresponding marriage certificate; she must also be over 25 years of age; if she is single, she must be over 30 years of age, and in both cases must have at least completed primary education. These facts must be proved by documentary evidence." "Persons of the female sex with any professional qualification can be authorized on production of their certificates and identity documents and by proving that they have reached the age of majority."

General Hernández Martínez was overthrown by Salvador Castaneda Castro, who repealed the Constitution of 1939; the Constitution of 1886 was adopted, in which women have no right to vote. It was also decreed that the electoral law of that year was valid.

However, it was established that "this law shall be amended, especially to regulate women's right of suffrage".

Thus in 1946 the electoral law of 1886 was amended, establishing that:

"If the person requesting authorization should be of the female sex, she must not only present her identity documents but also prove that she is over 25 years of age, by producing certification of the registration of her birth, and have attended at least the third grade of primary school, by producing a certificate of her studies or the additional evidence established under the educational regulations. However, a person of the female sex with any professional qualifications can be authorized on presentation of her certificate and identity documents, if she shows by producing certification of the registration of her birth that she is over 21 years of age.

All the above concerns the active right of suffrage; however, the possibility of standing for election to public office has not been mentioned in any of the constitutions that have existed throughout the history of El Salvador, but it is to be assumed that, during this entire development process, this right has been denied to women, as is shown by simply quoting some parts of earlier constitutions.

"Only the following persons shall be eligible for the office of Member of the Assembly at the next Constituent Assembly and for the office of President of the Republic:

Members of the Assembly:

Salvadorians by birth of the male sex who were born or are domiciled in the department in which the election is held."

"For the President of the Republic:

Salvadorians by birth of the male sex."

This situation persisted until 1950, in which year a new constitution came into force and the legal equality of men and women was established clearly, it being declared that:

"All Salvadorians above the age of 18, without distinction of sex, are citizens" and citizen's rights were defined as: "To constitute political parties, join parties already constituted and to apply for public office."

The drafting committee for this Constitution, being aware of the importance of including an article such as the foregoing, stated: "The Constitution places on record that by granting women full citizenship on equal terms with men, it believes that it is doing justice to valiant Salvadorian women, in line, moreover, with the more advanced trends of contemporary democratic doctrine."

At present, women play a very important role in the public life of the country, since women hold many public offices, for instance as Members of the Constituent Assembly, mayoresses, judges and senior public administration officials; at the moment, the Attorney for the Poor is a woman.

(c) This right is embodied in article 24 of the Political Constitution, which provides in this regard: "The following are the rights of citizens: to associate with one another to constitute political parties in accordance with the law and to join parties already constituted."

Accordingly, there are many political parties in El Salvador, to which many women belong, some of them being members of the governing bodies of the parties; there are also women's associations, which, though not strictly political parties, do indeed represent pressure groups in public opinion and do a great deal of work for the advancement of women.

Article 8 of the Convention

With regard to the provisions of article 8 of the Convention, there are no restrictions against women's occupying posts in which they represent the Government at the international level; thus El Salvador has many women in the foreign service and there are also women working as grade 7 officials in the Ministry of Foreign Affairs.

Some of the offices held by women are the following:

1. Legal Adviser;
2. Director for American Affairs;
3. Director for International Organization Affairs;
4. Director, Treaties Section;
5. Director of Finance, etc.

Article 9 of the Convention

In the Salvadorian constitutional system, a woman does not lose her nationality through marriage to an alien.

Under our legislation, marriage merely facilitates the acquisition of Salvadorian nationality by the alien spouse (article 13 (5) Cn).

Art. 13. "The following are Salvadorian nationals by naturalization:

5. Any alien man who, having two years' residence in the country, enters into marriage with a Salvadorian woman and any alien women who, subject to the same conditions, enters into marriage with a Salvadorian man, when they opt for Salvadorian nationality on marriage; and aliens who are married to Salvadorians, have two years' residence in the country and request naturalization before a competent authority."

With regard to the acquisition, change and retention of nationality, the law applies generally and without any distinction based on sex in respect of the enjoyment of these rights.

2. With regard to the nationality of the children, our legislation confers equal rights on the father and the mother by granting nationality on the basis of the jus sanguinis (article 12 (2) Cn).

Art. 12. "The following are Salvadorians by birth:

2. The children of Salvadorian fathers or mothers born abroad."

PART III

Article 10 of the Convention

The Government of El Salvador has declared that education is one of its fundamental aims and objectives; accordingly, article 198 of the Constitution provides that:

"All inhabitants of the Republic have the right and the duty to receive basic education that will enable them to play their part consciously and effectively as workers, parents and citizens. Basic education shall include primary education and shall be free of charge when dispensed by the State."

When the Constitution says "All inhabitants", it is referring generally to both men and women.

(a) As has been repeatedly pointed out in this report, El Salvador has in fact no discriminatory practices, particularly in the field of education.

(b) In our country, education is dispensed by private or public institutions; however, both types of institutions are compelled to follow the same syllabuses, which are established for the purpose by the Ministry of Education as an official institution. Article 196 of the Constitution provides that:

"The preservation, development and dissemination of culture is an obligation and a fundamental aim of the State."

Education is an essential function of the State, which will organize and set up such institutions and services as are necessary to ensure that, since the syllabuses are prepared by the State itself, and since education is one of the fundamental aims of the State, no kinds of discriminatory acts against women are conceivable within the educational system, because women enjoy the same level of education and access to local facilities and equipment in teaching centres.

(c) In our country, the majority of State schools as well as some private establishments are coeducational, while some are only for one sex. However, in any case, as has already been pointed out, they must all follow the same educational syllabuses, which are determined by the Ministry of Education as the competent institution.

(d) With regard to the award of scholarships, women enjoy the same opportunities, that is to say that no preference is given with regard to the necessary requirements because of the candidate's sex; however, in view of the special nature of our country or perhaps because of the concept of women's dependence in the social and family spheres that exists in Latin countries, or in other cases owing to the specific nature of the type of study, statistics show that more men than women take advantage of scholarships.

(e) Intensive literacy campaigns are being carried out in marginal zones, with the aim of giving the inhabitants of these zones the possibility of acquiring elementary education; in these campaigns, no type of distinction is made, but women participate less than men, owing to their own level and living conditions, since women are obliged to look after the home and the children.

(f) With regard to female student drop-out rates and the organization of programmes for girls and women who have left school prematurely, our country does not have a specific programme directed towards solving this type of problem. Nevertheless, our country now has an educational television system, which goes up to secondary school leaving level; though it is not exclusively directed towards women nor to solving this specific problem, it can in some measure help to solve it. Along the same lines, we have a "Modular University", which gives instruction by correspondence. By these programmes it is intended to alleviate the problems of those persons who, for one reason or another, cannot attend a teaching institution.

(g) Physical education and sports are compulsory at all State and private schools in El Salvador; accordingly, there are no limitations for girls apart from those resulting from the intrinsic nature of some sports, which make them unsuitable for women and girls.

(h) As has already been pointed out in this report, there are sections in the Office of the Attorney for the Poor that are responsible for counselling women in their work as mothers. Similarly, instruction on family planning is given by the Demographic Association, not only to women but also to men; the aim is to counsel and instruct them on birth control and the advantages of bringing into the world only wanted children.

Article 11 of the Convention

(a) Salvadorian legislation is progressive in labour matters. For instance, article 181 of the Constitution provides that:

"Work is a social function enjoying the protection of the State and is not considered as an article of commerce.

The State shall use all the resources at its disposal to provide employment for manual or intellectual workers and to give them and their families the economic conditions appropriate for a life consistent with human dignity."

By placing work in this category, the legislator confirms it as a fundamental human right.

(b) In labour matters, no distinction is made legally between men and women with regard to selection and opportunities for work; it could be said that this is the general rule. However, in actual practice such a distinction becomes necessary in the case of certain types of work, which are incompatible by their intrinsic nature with women's physical constitution. Thus, article 105 of the Labour Code provides that:

"The performance of dangerous and unhealthy work by persons under 18 and by women of any age is prohibited."

In this context, let us consider dangerous work:

Article 106. "Dangerous types of work are those that can cause death or immediate and grave physical injury to the worker. It is considered that the danger attached to such work may derive from its intrinsic nature, or the type of materials used, produced or released or from the type of residues generated by such materials, or from the handling of corrosive, inflammable or explosive substances, or from the storage of such materials in any form.

The following, for example, are considered to be dangerous types of work:

(a) The lubrication, cleaning, inspection or repair of machines or mechanisms while in operation;

(b) Any work using automatic, circular or band saws; shears, knives, cutters, hammers or other mechanical equipment whose operation requires special precautions and knowledge, except kitchen and butchers' utensils and tools and tools for similar work;

(c) Work underground or under water;

(d) Work using or producing explosive, detonating, unhealthy or toxic materials or inflammable substances; other similar types of work;

(e) Construction work of all kinds and related demolition, repair, maintenance and similar work;

(f) Work in mines and quarries;

(g) Work at sea, stowage of cargo, loading and unloading in docks; and

(h) Other types of work specified in laws and regulations on safety and hygiene, collective contracts or agreements, individual contracts and internal labour regulations.

Article 107. Work in bars, saloons, billiard halls and other similar establishments is considered to be dangerous work for persons under 18.

Article 108. Unhealthy types of work are those that, owing to the conditions in which they are performed or to their intrinsic nature, may harm the health of the workers; and those in which injury may be caused by the type of materials used, produced or released or by their solid, liquid or gaseous residues, such as:

(a) Those that entail the danger of poisoning by the handling of toxic substances or of materials from which they are derived;

(b) Any industrial operation in the course of which harmful gases or vapours or noxious fumes are generated;

(c) Any operation in which dangerous or noxious dust is generated;

(d) Other types of work specified in the laws and regulations on safety and hygiene, collective contracts or agreements, individual contracts and internal labour regulations."

(e) Neither our Political Constitution nor the Labour Code have any specific regulations with regard to the free choice of a vocation or employment, but there is a constitutional rule stating that:

Article 152. "No-one is obliged to do what the law does not prescribe or to abstain from doing what it does not prohibit."

From this provision, we can deduce that everyone in El Salvador is free to choose his own occupation or employment.

With regard to the principle of security of employment, women are among those who enjoy most protection under the law, since in the event of pregnancy they enjoy security of employment from the beginning of pregnancy up to the end of post-natal leave.

Article 113. Labour Code:

"As soon as pregnancy begins and until the end of post-natal leave, de facto dismissal or dismissal for previous express cause shall not lead to the termination of a female worker's contract, unless the cause of such dismissal predates the pregnancy; however, even in the latter case, dismissal shall not take effect until immediately after the end of the above-mentioned period of leave.

Women also enjoy equal wages with men and equal social benefits.

Our labour legislation regulates apprenticeship contracts but makes no distinction between men and women in this context. However, any person of either sex who is subject to an apprenticeship contract receives an allowance equivalent to wages under the social security system, as well as cash and social benefits, etc.; the Labour Code also covers training and retraining programmes and makes no distinction based on sex.

(e) The Political Constitution of El Salvador, in the chapter entitled "Work and social security", confirms the principle of equal wages in its article 182 (1), which provides on this point that:

"Work shall be regulated by a Labour Code, whose principal objective it shall be to harmonize relations between capital and labour; it shall be based on general principles conducive to improving the level of living of the workers, especially in the following respects:

1. In one and the same enterprise or establishment and under identical circumstances, equal remuneration for equal work must be paid to the workers, whatever their sex, race, creed or nationality."

As can be deduced from a reading of the previous paragraph, the Salvadorian system clearly embodies this principle of equal wages for men and women, so that any violation of this principle would be an offence against the constitutional system.

(f) A social security system operates in El Salvador, being constitutionally established in article 186:

"The social security system is a public service of a compulsory nature. The law regulates its scope and coverage and the form in which it must be implemented.

The employers, workers and the State shall share in the payment of the social security contributions.

The State and the employers shall be released from the obligations towards the workers imposed by the law to the extent that such obligations are covered by the social security system."

There is also a Social Security Law, article 3 of which provides in this context that:

"The compulsory social security system shall originally be applied to all workers in the service of an employer, whatever the type of contractual relationship and the form of remuneration. It may be extended in due course in favour of classes of workers who are not in the service of an employer."

As can be seen, when the social security system was set up constitutionally and was regulated by a law, no distinction was made between men and women.

The risks covered by the social security system are listed in article 2 of the Social Security Law.

Article 2. "The social security system shall give gradual coverage of the risks to which workers are exposed because of:

(a) Sickness, normal accidents;
(b) Industrial accidents, occupational diseases;
(c) Maternity;
(d) Invalidity;
(e) Old age;
(f) Death; and
(g) Involuntary unemployment.

Persons receiving a pension and the family members of insured persons and of pensioners who are financially dependent on the latter shall be entitled to benefits on grounds (a) and (c) on the occasions and conditions and in the form established by the regulations."

At the moment, the social security system in El Salvador covers all the above-mentioned cases except the last, i.e. involuntary unemployment, or dismissal without due cause.

Similarly, the social security sytem covers at the moment a man and his spouse or lifetime companion, so that it aims to ensure that the participant's wife has the right to receive medical assistance and other social security benefits.

(g) In this context, the legislator entitles women to a series of benefits in the event of maternity that are designed to protect women in this condition.

In the first place, the Political Constitution prohibits the performance of unhealthy or dangerous work by pregnant women (article 182 (10));

"The performance of unhealthy or dangerous work by persons under 18 and by women is prohibited; night work by persons under 18 is also prohibited. The law shall define dangerous or unhealthy work."

With particular reference to maternity, article 183 of the Constitution provides that:

"Working women shall be entitled to paid leave before and after confinement and to retention of employment."

It clearly follows from the above that the intention is to protect women, especially when they are pregnant, by permitting them security of employment and by giving them the right to pre- and post-natal leave and the right to receive remuneration equivalent to their wages during such leave.

It should be pointed out in this context that there is a dual system. In other words, there are two different systems for the treatment of maternity benefits, some women being covered under the social security system and some under the Labour Code. There is also a third system, solely for public servants, under which special leave is granted for maternity or childbirth, as provided by article 9 of the Law on Official Holidays, Annual Leave and Special Leave of Public Servants, which states on this point that:

"Special leave for childbirth is considered on the basis of the same rules as those for sick leave; however, for each childbirth, the leave granted may not exceed 90 days - one month before and two months after childbirth. Such leave must be granted irrespective of the actual date of the birth."

Greater benefits are granted under the social security system, in which the majority of private enterprises in our country participate. The provisions covering maternity in the Social Security Law are quoted below:

"Maternity benefits:

Article 59. In the event of maternity, the insured worker shall be entitled to the following benefits in the form and for the period established by the regulations:

(a) Medical, surgical, pharmaceutical, dental, hospital and laboratory services, to the extent that they are indispensable during pregnancy, confinement and the post-natal period;

(b) The benefits indicated in the first section of this chapter when sickness occurs as a result of maternity. If the insured woman dies, the surviving relatives shall be entitled to the aid established in article 66;

(c) The issue of a medical certificate for the purpose of the leave that must be granted to her according to the Labour Code (4);

(d) A cash allowance calculated according to article 48 of this law on condition that the insured woman does not perform any paid work during the period in which she receives the allowance. In no circumstances may a woman simultaneously receive both a sickness and a maternity allowance;

(e) Assistance during the lactation period in cash or in kind, when the mother is incapacitated, in the opinion of the medical officers of the Institute from feeding her child adequately; and

(f) A set of clothes and utensils for the baby, known as the "maternity layette". (2)."

Article 60. An insured man shall have the right that his wife or lifetime companion, if he is not married, shall receive the benefits established in subparagraphs (a), (b), (e) and (f) of the previous article. (2)."

The Labour Code also contains provisions on maternity benefits, which are quoted for information:

"Maternity benefits:

Article 309. The employer is obliged to grant a pregnant worker, as a rest period for maternity, twelve weeks of leave, six of which must be taken after confinement; and also to pay her in advance a benefit equal to 75 per cent of her basic wage during such leave.

Article 310. In order that a female worker may obtain the leave established in the previous article, it shall be sufficient for her to

submit to her employer a medical certificate made out on plain paper, in which the pregnancy is certified, indicating the probable term.

Article 311. In order that a female worker may be entitled to the cash benefit established in this Chapter, it shall be an indispensable requirement that she shall have worked for one and the same employer during the six months preceding the probable term; however, she shall in any case be entitled to the leave established in article 309.

Article 312. If after the expiry of the maternity leave the worker proves by producing a medical certificate that she is not in a fit condition to return to work, her contract shall continue to be suspended on the grounds specified in article 36 (4a) for the time necessary for her recovery, the employer being obliged to pay her sickness benefits and keep her post open for her."

2. (a) As was the practice earlier, pregnant women enjoy security of employment under social legislation, that is to say that they cannot be dismissed between the beginning of pregnancy and the end of post-natal leave. If a woman should be dismissed by her employer, the dismissal does not take effect and she is in any case entitled to institute appropriate proceedings.

Article 113.

"As soon as pregnancy begins and until the end of post-natal leave, the de facto dismissal or dismissal for previous express cause shall not lead to the termination of a female worker's contract unless the cause for such dismissal predates the pregnancy; however, even in the latter case, the dismissal shall not take effect until immediately after the end of the above-mentioned period of leave."

Marital status does not in fact represent a determining factor in giving employment, nor is any discrimination made on these grounds.

(b) With regard to this point, all relevant information has already been given in the course of this report.

Maternity leave has been established in El Salvador under article 309 of the Labour Code:

"The employer is obliged to grant a pregnant worker, as a rest period for maternity, twelve weeks of leave, six of which must be taken after confinement; and also to pay her in advance a benefit equal to 75 per cent of her basic wage during such leave."

However, in addition to such leave, she receives an advance allowance equivalent to 75 per cent of her wages, and, if she is covered by the social security system, the medical, surgical, pharmaceutical, dental, hospital and laboratory services necessary during pregnancy, confinement and the post-natal period, assistance during the lactation period in cash or in kind, when the mother is incapacitated, and what is known as the "maternity layette", which is a set of clothes and utensils for the baby.

The wife or the lifetime companion of an insured man also receives these benefits.

A woman who has had more than six months of actual service with one and the same employer enjoys these rights; even if she has not had six months of service, she receives maternity leave, but without the other social benefits indicated earlier.

(c) With regard to this subparagraph of the Convention, article 183 of the Political Constitution provides that:

"The laws shall regulate the obligation of employers to install and maintain nurseries and day-care facilities for workers' children."

However, in practice, this provision is only created in the Constitution because the nursery service is very deficient in our country, so that many women are restricted in the possibility of finding work that would enable them to improve their level of living and that of their families.

(d) This provision of the Convention is specially covered in article 110 of the Labour Code, which establishes that:

"Employers are prohibited from assigning pregnant women to work requiring considerable physical effort, or that is incompatible with pregnancy, after the fourth month of pregnancy."

Article 12 of the Convention

1. Our country is somewhat deficient in the matter of health care owing to the paucity of resources in relation to the size of the population to be covered by State aid; however, even in the face of such limitations, El Salvador has tried to overcome this situation gradually. For that reason, no discrimination based on sex was made among the beneficiaries of this service when State health care was introduced.

For a number of years it has been the practice that the wife or lifetime companion of a worker participating in the social security system

has been considered as being covered by this system for the purposes of the hospital service, which represents an advance in social security in our country, ensuring the greatest possible protection for women.

Also, public maternity hospitals operate in our country and give assistance free, like the family counselling and planning services; at the moment, a national campaign is being conducted on family planning in which the Salvadorian Demographic Association is trying to arouse among the population awareness of family responsibilities and the desirability of bringing into the world only wanted children.

2. As was indicated in the previous paragraph, the State has a number of maternity hospitals in which women are treated during pregnancy and confinement. In an effort to extend the coverage for the female population, the State authorities have recently opened a modern maternity hospital with the aim of improving the service.

Owing to cultural patterns in our country and particularly in rural areas, there is some reluctance on the part of rural women to attend hospital for treatment during confinement. In an attempt to find a solution to this problem, the Ministry of Public Health gives training courses for rural midwives, who assist rural women in their own homes during confinement. In these courses, an attempt is made to impart to these women certain techniques and the essential asepsis measures and they are provided with the basic instruments used.

Article 13 of the Convention

With regard to the right to family benefits, as has already been explained, these are workers' rights, so that women are entitled to them not because they are women but because of the labour relationship in question; however, owing to their special nature, women do enjoy special benefits, such as:

(a) Maternity leave and security of employment during pregnancy and post-natal leave.

(b) With regard to obtaining bank loans, mortgages and other forms of financial credit, there is no discrimination whatever against women, since, under the Salvadorian system, any person who meets the requirements prescribed by the law can obtain credit, mortgages, etc.

(c) Participation in recreational activities, sports and all aspects of cultural life: El Salvador has declared that education is one of its fundamental activities, and sport is understood as being part of education. As this is one of the fundamental activities of the State, there is no distinction whatever with regard to participation in such pursuits.

Article 14 of the Convention

In the rural areas of El Salvador there is indeed discrimination or an attitude of mind against women that has not yet been overcome, since their participation is reduced solely to household tasks and child care and it is a rare occurrence for them to be taken into account in the context of agrarian reform, economic opportunities, etc.

The provision of adequate housing, sanitation, electricity and water supply, transport and communications is an aim of the State at a general level, with the purpose of improving the welfare conditions of the rural population to the maximum possible extent.

However, in the specific area of women's affairs, the Ministry of Agriculture is carrying out a programme intended to help women in rural areas.

Article 15 of the Convention

1. In this context it has already been stated in this report that El Salvador, in its Political Constitution, establishes equality before the law without distinction on grounds of race, sex, nationality or religion (article 150 Cn).

2. In civil matters, women have equal legal capacity with men, as is confirmed by articles 1316, 1317 and 1318 of the Civil Code.

"Actions and declarations of intent:

Article 1316. The following are necessary requirements for the undertaking of obligations by one person to another:

1. That the person have legal capacity;

2. That the person consent to the action or declaration and that his consent be not vitiated;

3. That the purpose be licit;

4. That it have a licit cause.

A person's legal capacity consists in his being able to undertake an obligation on his own, without the instrumentality or authorization of another person.

Article 1317. All persons have legal capacity except those declared by the law to be incapable.

Article 1318. Lunatics, under-age children and deaf-mutes who cannot make themselves understood in writing have absolute legal incapacity.

Their actions give rise to no natural obligations and cannot be the subject of collateral guarantees.

Also, adult minors who have not obtained capacitation through age, and juridical persons; however, the incapacity of the former is not absolute since their actions are valid in the cases determined by the law. The latter are considered to be absolutely incapable in the sense that their actions shall have no validity whatever if performed in contravention of the rules adopted to govern them.

Apart from the above, there are other types of incapacity consisting in the prohibition that the law has imposed on certain persons against performing certain actions."

Similarly, women enjoy equality before the law in any matter whatever, as is shown by article 189, which provides that:

"The spouses may enter into contracts with one another and the wife does not need the authorization of her husband or the judge to conclude any type of contract or to appear in court."

Equality between men and women with regard to the right to freedom of movement and the freedom to choose their own residence and domicile: In this regard, the rule established in article 154 of the Constitution grants absolute liberty.

"Article 154. All persons are at liberty to enter, remain in and leave the territory of the Republic, subject to the limitations established by law.

No person can be obliged to change domicile or residence except by order of a judicial authority in the special cases and subject to the requirements indicated by the law.

No Salvadorian may be expatriated or refused entry into the territory of the Republic nor refused a passport for his return or other identity documents."

However, in civil matters, there is a restrictive rule applying to women. Article 183 of the Civil Code provides:

"Article 183. The husband is entitled to oblige his wife to live with him and to follow him to wherever he transfers his residence.

This right cannot be exercised through coercion, but the husband can refuse to maintain his wife if she refuses without just cause to live with him. The wife, for her part, has the right to be received by her husband in his home.

In cases covered by this article, the judge shall take summary action."

This is a relic of former legislation that has not yet been done away with.

Article 16 of the Convention

It can be said that there is equality between the spouses in matters relating to marriage.

(a) The requirements for entering into marriage are the same for men and women, except as regards age, which is understandable for reasons inherent in the biological development of the sexes.

(b) Under Salvadorian legislation, the free consent of the spouses is a requirement for the validity of the marriage, since marriages are null and void if entered into against the free consent of one of the spouses.

(c) There is not genuine equality with regard to the rights and responsibilities of the spouses, since article 182 of the Civil Code provides in this context that:

"The spouses are obliged to remain faithful to one another and to render each other succour and assistance in all circumstances of life.

The husband owes protection to his wife and the wife obedience to her husband."

Accordingly it can be said that though this rule is not discriminatory it does establish a distinction between the obligations of the spouses.

The discriminatory measures in relation with the dissolution of the marriage bond that are inherent in some grounds for divorce have already been indicated in the course of this report.

There is also discrimination in the case of remarriage, as provided by article 180 of the Civil Code, which states that:

"When a marriage has been dissolved or annulled, the woman, if she is pregnant, cannot remarry before confinement, or, if she displays no signs of pregnancy, before 300 days after the dissolution or declaration of nullity."

As the above rule indicates, limitations are imposed on women; while a man can remarry immediately after divorce, a woman must wait 300 days.

(d) In the context of the rights and responsibilities of parents towards their children, our legislation does establish differences with regard to the marital status of the parents.

When a child is conceived or born in wedlock, parental authority is exercised jointly by both parents, as provided in article 252.

"Parental authority is a set of rights that the law grants to the legitimate parents, acting jointly, or to one of them only in default of the other or, if appropriate, to unmarried mothers, over their unemancipated children."

Also, in default of the mother, the natural father who has recognized his child has parental authority.

Unemancipated children of any age are denominated children of the family, and the father or mother or mother, in relation to them, father or mother of the family.

When the law refers to the father of the family or simply to the father, it is to be understood that it is referring to the father or mother who exercises parental authority or to both, when they exercise it jointly, unless a separate reference is made to one or other of the parents.

(e) The right to plan a family has already been mentioned in this report and it has been indicated that it is a right of all Salvadorians.

(f) As has been indicated, the parents exercise parental authority over the children jointly, and similarly both men and women can be guardians and one of them can, in default of the other, nominate a guardian.

(g) The provisions of this subparagraph have already been covered in the context of the free choice of profession or occupation. El Salvador has no legislation with regard to names, because the wife has the option of using her husband's family name if she so wishes; in practice this occurs in the majority of cases but has no effect on marital status.

(h) Under Salvadorian legislation, the spouses can freely administer their property, since there has been a change in the former system of marital community of goods, under which the property was administered by the husband. Now, a wife can conclude contracts and administer and manage property without her husband's consent.

2. Though there is not a single instance of the conclusion of betrothal contracts in El Salvador, such contracts are indeed regulated in the Civil Code, which has established on this point in article 94:

"Article 94. Betrothals or promises of marriage mutually accepted represent private acts which the law subjects entirely to the honour and conscience of the individual and that give rise to no obligation whatever under civil law.

Such promises cannot be invoked either to bring about a marriage or to claim indemnification."

However, as can be seen from reading this article, it is nothing more than a natural obligation, which, if not fulfilled, cannot be enforced.

There is an age requirement for marriage, which our legislation fixes at 16 for males and 14 for females, provided that the parents' consent is obtained.

With regard to the registration of marriages, Salvadorian legislation provides as follows in article 316:

"Article 316. Registrations of marriages shall be entered in the appropriate volume and shall include:

1. The first name and family name, age and profession or occupation of each of the spouses;

2. The first names and family names of the parents, in the case of legitimacy, or of the mother, in the case of illegitimacy;

3. The first names and family names of the official who authenticated the marriage and of the witnesses who attended it;

4. The date on which the marriage ceremony was performed.

The mayor of the locality in question shall make the entry within eight days following the marriage, taking the data from the respective document, which must be sent to him not later than the third day by the official who performed the marriage ceremony, unless it was the mayor himself."

Therefore it is incumbent on both the persons entering into marriage and the official who performed the ceremony to make the registration indicated so that the marriage ceremony performed may be valid.

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# MONGOLIAN PEOPLE'S REPUBLIC

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The popular revolution of 1921 laid the basis for the building of a new society free from exploitation and inequality. Over a historically brief period, radical social and economic reforms were carried out in Mongolia, which passed straight from a situation of feudal backwardness and colonial dependence to socialism, avoiding the whole socio-economic stage of capitalism.

One of the most important gains of popular rule was the achievement of full equality between men and women in all aspects of the life of the community - economic, political and cultural.

Nowadays the women of Mongolia are active participants in the construction of a socialist society. Mongolian women work successfully in all fields of the economy and culture, including agriculture, industry, trade, transport and communications, science and education, health and the arts. Forty-nine per cent of those working in the country's economic and cultural activities are women.

Women represent 32 per cent of Heroes of Labour of the Mongolian People's Republic, and during the sixth five-year plan (1976-1980) accounted for 37.2 per cent of shock workers.

1. In the Mongolian People's Republic all citizens have equal rights regardless of sex, race, nationality, religion or social origin or status (Mongolian Constitution, article 76). The Mongolian Constitution contains a special article (article 84) proclaiming the equality of men and women in all fields of economic, state, cultural, social and political life. Any attempt to deny women equal rights in whatever way is punishable by law. The realization of this equality in practice is ensured by giving women equal conditions in the fields of work, leisure, social welfare and education, by state action to protect the interests of mother and child, by state aid to mothers of large families, by granting paid leave for pregnant women and nursing mothers and by extending the network of maternity homes, kindergartens and crèches.

Questions relating to women's rights are also regulated by national laws and regulations, such as the acts on khurals and deputies, the provisions on elections to state organs, the Labour Code, the Health Act, the Civil and Family Code, the Education Act and the Pensions Act.

Standing commissions on women's labour and life and on maternal and child welfare have been set up under the Great People's Khural of the Mongolian People's Republic and the khurals of people's deputies of towns and aimaks (provinces).

In Mongolia the basic provisions of the Convention on the Elimination of Discrimination Against Women have become a reality.

2. Women in Mongolia enjoy all political rights on an equal footing with men. They are given genuine opportunities for broad participation in the country's political and community life. All Mongolian citizens on reaching the age of 18 are entitled to vote in all elections and to be elected to all State organs (Mongolian Constitution, article 81). The active and equal part played by women in the life of society and the State is shown by the following facts. Women represent 24.3 per cent of the deputies in the Great People's Khural of Mongolia and 28.3 per cent of deputies in local organs of the State. They constitute a quarter of the membership of the Mongolian People's Revolutionary Party, more than half the membership of the Mongolian Revolutionary Union of Youth and the Mongolian trade unions and 30.8 per cent of those working in organizations of the community and in organs of the State administration.

All workers have an equal chance of promotion in their work on the basis of their length of service and qualifications, regardless of sex.

3. Mongolian women have the same rights as men with regard to acquiring, changing and keeping their citizenship. The Mongolian Family Code, article 107, and the Citizenship Act, article 5, state that marriage between a Mongolian citizen and an alien does not entail any change of citizenship for either party. Article 12 of the Citizenship Act states that if one of the spouses ceases to have Mongolian citizenship, that does not affect the citizenship of the other spouse or of their children. When registering the birth of children, the civil registry offices at the same time register their citizenship, being governed in this by the Mongolian Citizenship Act (Mongolian Family Code, article 110).

4. Women in Mongolia have the same rights as men at all levels of education. This right is guaranteed by the fact that education is free, by the development of a wide network of schools of general education and specialized institutions, by development of the system for improving qualifications and by the system of State grants to students in secondary schools and specialized and higher educational institutions (Mongolian Constitution, article 80).

The new Mongolian Education Act establishes the basic principles underlying education in Mongolia:

Mongolian citizens have an equal right to education regardless of sex, race, nationality, religious attitude or social origin or status;

Education is compulsory for all children and young people;

All educational institutions are state and public in nature;

People are entitled to be taught in their native tongue;

Instruction in educational institutions is free at all levels, students and pupils receive state grants and are given other material assistance and benefits;

The education and upbringing of children and young people is a unified process, in which the school, the family and the community co-operate;

The sexes are educated together.

Under the Education Act, article 59, students and pupils are entitled to make use, free of charge, of equipment and instruments, auditoriums, reading rooms, laboratories, libraries, sports halls and grounds and all other educational facilities, to live in boarding houses and hostels and to obtain free care at medical institutions.

Universal (compulsory) primary education was successfully introduced for Mongolian children in the early 1960s. Now that the country has moved on to universal (compulsory) eight-year education for children of school age, primary education represents the first cycle (stage) of secondary education.

After compulsory eight-year education almost half of the pupils graduating from the eighth class continue their studies at secondary school, receiving 10-year (full secondary) education, while others go to vocational training colleges or secondary specialized institutions.

Secondary education is an important element in the Mongolian educational system. It includes general secondary education, vocational training and specialized secondary education, which are given respectively in general secondary schools, vocational training colleges and specialized secondary institutions.

At present the country has 885 schools of general education, 37 training colleges and 25 specialized secondary institutions. According to the 1980 figures, out of every 10,000 inhabitants, about 3,000 were undergoing education, including 2,373 in schools of general education and 246 in specialized secondary institutions and training colleges.

Those who complete ten years of school receive a certificate of secondary education, which entitles them to enter higher educational institutions, and also training colleges and specialized secondary institutions, where they take a shortened course.

The training colleges and specialized secondary institutions prepare skilled and specialized personnel for various occupations. Apart from vocational training and specialized instruction, they also provide general secondary education, undertake extensive work of ideological education in a spirit of patriotism, internationalism and the strengthening of peace and friendship between peoples, like all educational institutions, and concern themselves with the aesthetic and physical education of students. At the present time training colleges and specialized secondary institutions are preparing skilled workers and specialists in more than a hundred different occupations and specialties.

Students at training colleges get free food and clothing from the Government and those at specialized secondary institutions get grants.

There are special sanatorium schools for students needing long-term care. There are also special schools of general education and boarding schools for children with sight, hearing or speech defects and those who are mentally defective or for some other reason cannot be educated in an ordinary school. Such schools have special syllabuses and are run by people trained in dealing with the handicapped. The students get free education, medical care and preparation for socially useful labour.

At schools of general education extra work is done with backward pupils out of hours. Homes have been set up and are in operation for the maintenance, instruction and education of children who have no parents or guardians. These homes are fully financed by the State.

For young people working in the economy who have not had general secondary education there are evening (shift) schools and seasonal schools of general secondary education, and extramural education is organized in the schools. Workers can improve their qualifications at evening (shift) vocational training schools, workshops, courses, etc. Under the Education Act, article 60, students and pupils taking courses at different educational institutions while continuing to work are entitled to extra paid leave, a shorter working day and various other advantages in accordance with Mongolian law.

The highest level in the Mongolian educational system is higher education, which is given at the country's higher educational institutions - universities and institutes. According to the 1980 statistics, 140 out of every 10,000 inhabitants were studying at higher educational institutions.

Nearly half the students at higher educational institutions are women.

The country at present has seven higher educational institutions, attended by over 23,200 students.

Under the Education Act, article 55, citizens of Mongolia who have completed secondary education are entitled to enter higher educational institutions. Students at higher educational institutions get grants.

Students at higher educational institutions who continue to work are entitled to extra paid leave, a shorter working day and other advantages.

5. In our country women are able to exercise their legal right to equal pay, to work in any sphere of activity in the community, to improve their qualifications and to enjoy labour protection. The year 1974 saw the introduction of the Mongolian Labour Code, which provides a legal guarantee of the protection of the work rights of working people, including women.

The Mongolian Constitution forbids any direct or indirect limitation of rights or granting of direct or indirect advantages in relation to employment on the basis of sex, race, nationality, etc. Manual and non-manual workers are entitled to the rates of pay guaranteed by the State in accordance with the amount and quality of work done, regardless of sex, race, etc.

Women are entitled on the same footing as men to leisure under the legislation on the limitation of the working day and annual paid vacation, to healthy and safe working conditions, to free vocational and advanced training, to participation in production management and material support from the State in the form of state social security in old age and sickness.

The country's plants, offices and organizations are required to take measures to create healthy and safe working conditions. They introduce modern safety devices to prevent accidents at work and provide healthy and sanitary conditions. It is forbidden to employ women for work under arduous or harmful conditions or work underground. Under the Labour Code, articles 48, 151, 169 and 179, the working day is reduced for women who need such conditions for health reasons and for manual and non-manual workers with diminished fitness for work.

Apart from the basic vacation, which under the Labour Code is 15 days, women like men who work under arduous or harmful conditions get extra vacation of three, seven or eleven days. Apart from this, manual and non-manual workers without exception get, in addition to their basic and supplementary leave, a further two days after 15 years' uninterrupted employment and another day for each subsequent five years. Women with five or more children and disabled persons in groups I and II who are working have the chance to spend their vacation at state holiday homes free of charge for a period of 14 to 21 days once a year.

Under the Mongolian Pensions Act, women who have worked under ordinary conditions for not less than 20 years are entitled to a pension at the age of 55, five years earlier than men. Women who have borne and brought up four or more children and have worked for not less than 15 years get their pensions at 50. Women who have worked not less than 20 years, including not less than 10 years' work under arduous conditions, are entitled to a pension on favourable terms at the age of 50. On the death of the family breadwinner, dependent members of his family who are not fit to work get corresponding pensions and allowances.

Mongolia has a state system of mother and child welfare.

Under the Mongolian Labour Code women get maternity leave for 101 days, and in the event of a multiple birth the period is extended to 126 days (Labour Code, article 156). Before or after her maternity leave a woman is entitled if she wishes to take her regular annual leave regardless of her length of service. After her maternity leave she can also if she wishes take leave on part pay for up to six months. Families with large numbers of children are given special allowances for looking after the children up to the age of eight. Since 1981 children up to the age of one and those under out-patient care have been provided with the drugs they need free of charge.

Under the labour legislation it is forbidden to refuse women jobs, to reduce their pay or to dismiss them because they are pregnant or have children (Labour Code, article 14). On the recommendation of the Medical Board, pregnant women needing to have easier working conditions for health reasons can have their working day reduced or they can be transferred during pregnancy to other lighter work while keeping the same average pay as before (Labour Code, article 151).

It is also forbidden to put pregnant women and nursing mothers on night work or overtime, or to send them on mission (Labour Code, articles 153, 154).

In addition to the normal break in the working day, mothers with children up to the age of six months are allowed breaks for a total of two hours during the working day to feed their children and women with children from six to twelve months for a total of one hour. These breaks for feeding children count as part of the working day and are paid at the average rate.

The State devotes great attention to the question of providing the necessa conditions so that women can combine going out to work with care of their children and families. The system of children's institutions, such as crèches and kindergartens, is expanding from year to year. At industrial plants, economic organizations and service establishments employing large numbers of women, there are crèches and kindergartens, special premises for feeding children and restrooms for mothers and children.

The country now has 624 kindergartens and 398 crèches, attended by over 71,100 children. Children up to the age of three are cared for at crèches free of charge. Among the basic policies for the development of the national economy and culture in the period 1981-1985, it is planned to construct and

bring into operation kindergartens and crèches with a total of 11,000-12,000 places. Comprehensive support is to be given for the organization and construction of kindergartens and crèches out of the funds of industrial plants, agricultural associations, state farms and other organizations.

6. Mongolian citizens are guaranteed the right to skilled medical care free of charge. Protection of the health of mothers and children is a major concern of our State. Standard medical institutions today for providing pregnant women and nursing mothers with general health care are women's clinics, maternity homes and residences. The basic principle underlying the organization of health care for mothers and children is that they should be looked after by their local area or district. Nowadays 14.8 per cent of all hospital beds are occupied by young mothers and about 23.4 per cent by children. A mother and child health research institute has been set up.

In Mongolia the number of children's hospitals and wards has more than doubled over the past ten years and the number of children's clinics has increased tenfold.

The health service provides pregnant women with skilled medical care when they need it, with in-patient care for confinement and with general health care for the mother and new-born child afterwards.

7. Women have the same right as men to take part in the cultural life of the country. So that this right can be realized in practice, the country has set up a wide network of cultural and artistic institutions. It now has 16 theatres, 25 cinemas, over 1,400 libraries and reading-rooms, 392 clubs, 29 cultural centres and 28 museums.

Forty-six per cent of People's Artists and 20 per cent of Honoured Cultural Workers are now women.

In Mongolia great attention is given to increasing the material welfare of the people, and in particular agricultural workers. During the most recent five-year plan a number of measures were introduced to increase the money income of members of agricultural associations, and pay rates were increased for some categories of workers in aimaks (provinces) and somons (administrative units).

Increased procurement prices for livestock produce, special supplements for farms in the Gobi area and increased old-age pensions and coverage by the state pension system for members of agricultural associations have made it possible to improve working and living conditions for agricultural workers, including women, and to bring their income nearer to that of workers in other sectors.

In the new five-year plan it is proposed to introduce the piece-rate system of paying members of agricultural associations for their work in order to give them a greater material incentive. With the new five-year plan male members of agricultural associations will get their pensions at 60 and women at 55.

Comprehensive measures are being taken in Mongolia with regard to maternal and child welfare in rural areas. Agricultural associations provide pregnant women with special residences where they are under medical supervision before and after confinement for ten to fourteen days.

The cultural level of rural workers is rising from year to year. Under the new five-year plan television receivers using the Ekran system will be set up in over a hundred localities.

Graduates of general education schools and vocational training colleges go to work in agriculture.

9. In Mongolia justice is administered in civil and criminal cases on a basis of equality of citizens before the law and the court, regardless of sex, nationality or race (Code of Civil Procedure, article 5).

10. Among the State's important tasks are to strengthen the family, to protect the individual and property rights of the spouses and other members of the family and to ensure that they enjoy equal rights. Mongolian family legislation is designed to strengthen the family, to improve family relations still further and to ensure that women enjoy a position of equality with men in everyday life.

Mongolian citizens enjoy equal rights in family relations. Any limitation of the rights of citizens or the granting of any advantages in relation to marriage and other family relations on the basis of sex, race or nationality is forbidden (Family Code, article 5). A marriage can only be concluded if

both parties consent to it of their own free will and have reached marriageable age, which is eighteen years for both men and women. The marriage must be registered at the civil registry office. Under the Family Code women have equal rights with men during the marriage and after its dissolution.

The spouses are entitled to choose their occupation and trade (Family Code, article 14).

Under the Family Code, all the property and savings accumulated by the spouses during their marriage are recognized as their common joint property.

Parents have equal rights and obligations with regard to their children. Dissolution of the marriage does not release parents from their obligations regarding the raising of the children (Family Code, article 41). Parents are required to protect the rights and interests of their minor children. As legal representatives of their minor children they act in protection of their rights and interests in judicial organs and in state, public and other organizations.

A marriage can be dissolved by mutual consent of the spouses, provided they have no minor children, at the civil registry office. Marriages cannot be dissolved if the wife is pregnant or has a child under the age of one year (Family Code, article 30).

When giving a decision on the dissolution of a marriage, the court decides which of the children shall remain with which parent. It takes this decision in the light of the interests of the parents and children, the age of the children, their need for parental care and the capacity of each of the parents to provide for the best upbringing of the children.

When the courts consider disputes relating to the upbringing of children under the age of nine, they give a hearing when necessary to representatives of the health service and guardianship authorities, and when the children are aged nine or over their own wishes are taken into account.

11. In Mongolia there is a community organization known as the Committee of Mongolian Women. The Committee plays an important role in protecting the rights and interests of Mongolian women and ensuring that they can play an active part in the social, political and economic life of the country. In addition, the Committee has full powers to monitor the execution of decisions and legislation in the field of maternal and child welfare.

The Committee co-ordinates and directs the activity of all women's organizations in Mongolia. It has 75 members, including the Chairman and his deputy, and a Praesidium consisting of 15 members. The supreme organ is the Congress. The Committee has associated councils in the aimaks (provinces) and towns and also has local councils at enterprises, agricultural associations and offices. It puts out a journal entitled "Mongolskaya zhenshchina" (Mongolian Woman).

The Mongolian Women's Organization takes an active part in the activities of the Women's International Democratic Federation and other international organizations and maintains working contacts with the national democratic women's organizations of many countries. It is constant in its struggle for peace and social progress throughout the world.

12. Mongolia attaches great importance to the United Nations Decade for Women and consistently supports international efforts aimed at achieving its aims and purposes. Our country considers the Decade an important factor in the struggle for equal rights for women in society, for broad participation by women in all spheres of the life of the community and for their active involvement in the movement to strengthen peace and international security.

Mongolia has acceded to and ratified the following international instruments adopted by the United Nations and the specialized agencies on the elimination of discrimination against women: the International Convention on the Elimination of All Forms of Discrimination Against Women, the Convention on the Political Rights of Women, the International Covenants on Human Rights, the Convention on the Elimination of All Forms of Racial Discrimination and the ILO conventions on equal pay for equal work, maternal welfare and discrimination at work.

Annex

Constitution of the Mongolian People's Republic of 6 July 1960

Article 76. Citizens of the Mongolian People's Republic have equal rights regardless of sex, race, nationality, religion or social origin or status.

Article 77. Citizens of the Mongolian People's Republic are entitled to work and to receive payment for work in accordance with its quantity and quality.

This right is ensured by all the advantages of the socialist economic system established in the Mongolian People's Republic, giving every citizen full opportunity to apply his knowledge and labour unhindered in any branch of the economy and culture and to receive a guaranteed remuneration in accordance with the amount of work done.

Article 78. Citizens of the Mongolian People's Republic are entitled to leisure. This right is ensured by fixing the maximum length of the working day at eight hours, reducing the working day for a number of special occupations, establishing a weekly day of rest and annual paid vacations for manual and non-manual workers and the provision of sanatoriums and state holiday homes, theatres, clubs and other institutions to provide services for working people.

It is the policy of the Mongolian People's Republic to increase the amount of free time in the future as the country's productive forces develop, by reducing work time and improving and making more easily available various services for working people so that they can increasingly use their free time not just for rest but also for physical and spiritual improvement and for raising their level of knowledge and education.

Article 79. Citizens of the Mongolian People's Republic are entitled to material aid in old age, when unfit for work, when ill or upon loss of the breadwinner. This right is guaranteed among other things, by granting assistance to working people through the system of social security, state pensions, special funds of co-operative organizations, extensive development of the system of medical institutions and health resorts, free medical care for working people and development of the system of labour protection.

Article 80. Citizens of the Mongolian People's Republic are entitled to education. This right is guaranteed, among other things, by free instruction, extensive development of the system of schools of general education, specialized secondary educational institutions and higher educational institutions and by development of the system for improving qualifications and the system of state grants for students at specialized secondary and higher educational institutions.

Article 81. Citizens of the Mongolian People's Republic are entitled to participate freely in the management of the State and society and in the direction of the country's economic life, both through their representative organs and directly. This right is guaranteed by giving all citizens genuine opportunities for broad participation in all aspects of the political, economic and cultural construction of the country, and in particular, through participation in elections, referendums, the system of popular supervision, the organization of different democratic associations, etc.

All citizens of the Mongolian People's Republic who have reached the age of 18 years, except those certified to be of unsound mind, have the right to elect representatives and to be elected to all state organs.

Article 82. Citizens of the Mongolian People's Republic are entitled to combine in community organizations: trade unions, co-operative associations, youth, sports and other organizations, cultural and scientific associations, and also associations for strengthening peace and friendship between peoples, etc.

The most active and aware citizens from among the ranks of the manual workers, co-operative workers and working intelligentsia come together in the Mongolian People's Revolution Party, which is the vanguard and leader of all state and other mass organizations of working people.

Article 83. Citizens of the Mongolian People's Republic, regardless of their nationality, have equal rights in all fields of the country's state, economic, cultural, social and political life. Any direct or indirect restriction of the rights of citizens on grounds of race or nationality and any propagation of chauvinist and nationalist ideas is forbidden by law.

The State guarantees representatives of all nationalities living in the territory of the Mongolian People's Republic the opportunity to develop their national culture, receive instruction and carry on their business in their native tongue.

The Mongolian People's Republic extends the right of asylum to foreign citizens persecuted for defending the interests of working people, for participating in the struggle for national liberation, for working to strengthen peace or for scientific activity.

Article 84. Women in the Mongolian People's Republic have equal rights with men in all fields of economic, state, cultural, social and political life. In particular, the exercise of these rights is guaranteed by giving women equal conditions with men as regards work, leisure, social security, education, state protection of the interests of mother and child, state aid to mothers of large families, paid maternity leave for women and expansion of the system of maternity homes, crèches and kindergartens. Any attempt to stop women enjoying equal rights in any way is forbidden by law.

## LABOUR CODE OF THE MONGOLIAN PEOPLE'S REPUBLIC
## of 3 July 1973

### Chapter 9: Women's labour

Article 149. Prohibition of refusal to employ women, reduction of their pay. dismissal. It shall be forbidden to refuse to employ women, to reduce their pay or to dismiss them because they are pregnant or have children.

Article 150. Work for which it is forbidden to use women's labour. It shall be forbidden to use women's labour for work involving arduous or harmful conditions and also for underground work (apart from some kinds of non-physical underground work, health care and other services).

It shall also be forbidden for women to carry or move heavy loads exceeding the established limits.

The list of kinds of arduous work and work carried out under harmful conditions for which it is forbidden to use women's labour shall be approved in accordance with the procedure laid down by law.

Article 151. Reduction in the working day for pregnant women. For pregnant women needing easier working conditions because of their state of health the working day may be reduced on the recommendation of the Medical Board. In these circumstances they shall be paid for their labour in accordance with the second part of article 84 of this Code.

Article 152. Transfer to lighter work of pregnant women, nursing mothers and women with children up to the age of one year. On the recommendation of the Medical Labour Board pregnant women shall be transferred for the period of their pregnancy to other lighter work while continuing to receive the same average pay as before.

Nursing mothers and women with children up to the age of one year shall, if they are unable to perform their previous work, be transferred to other work, keeping the same average pay as before throughout the period when they are nursing their babies or until the child reaches the age of one year.

Article 153. Prohibition of the dismissal of pregnant women, nursing mothers and women with children up to the age of one year. It shall be forbidden for pregnant women, nursing mothers and women with children up to the age of one year to be dismissed at the initiative of the management.

If the enterprise, office or organization is to be completely wound up, they may be dismissed but must be found other work.

Article 154. Prohibition of night work, overtime and missions. It is forbidden to assign pregnant women, nursing mothers and women with children up to the age of one year to night work or overtime or to send them on mission.

Article 155. Breaks for feeding children. Apart from the general break for rest and food, women with children up to the age of six months shall be given additional breaks to feed their children for a total of two hours in the course of the working day and women with children aged from six to 12 months for a total of one hour.

Breaks for feeding children shall be included in work time and shall be paid at the average rate.

Article 156. Maternity leave. Women shall be given maternity leave for 45 calendar days before confinement and 56 calendar days afterwards.

In the event of an abnormal confinement or multiple birth, post-natal leave shall be given for 70 calendar days.

Mothers who have not used up all their pre-natal leave may take the balance with their post-natal leave.

Article 157. Combination of maternity leave with regular leave. Before or after maternity leave a woman at her request shall be granted her regular annual leave by the management of the enterprise, office or organization regardless of her length of service.

Article 158. Leave for women adopting new-born children. Women adopting new-born children shall get leave from the day of adoption until 56 days after the birth of the child and shall receive an allowance for this period from the state social security system.

At the request of a woman who has adopted a new-born child she shall be given extra leave without pay until the child reaches the age of six months.

Article 159. Granting of leave without pay to women. After the end of maternity leave and, where appropriate, regular leave, women shall at their request be given leave without pay for a period of up to six months without losing their former employment.

Such additional leave without pay shall count towards their total length of uninterrupted service and also towards their period of service in a specialized field.

The period of extra leave without pay shall not count towards the period entitling them to their next annual leave.

Article 160. Leave upon miscarriage or abortion. If a women has a miscarriage or an abortion on medical advice after the 196th day of pregnancy she shall be given maternity leave. If she has a miscarriage or abortion on medical advice before the 196th day of pregnancy she shall be released from work under the procedure for release from work on grounds of sickness.

Article 161. Services for women at enterprises, offices and organizations employing substantial numbers of women. At enterprises, offices and organizations employing substantial numbers of women, crèches and kindergartens, rooms for nursing mothers to feed their children and rooms for women's personal hygiene shall be organized.

Article 162. Granting of material assistance to pregnant women, unmarried mothers and mothers with young children. The organization, enterprise or office for which they work can, where necessary, issue pregnant women, unmarried mothers and mothers with young children with passes to sanatoriums and state holiday homes free of charge or on favourable terms and also give them material assistance from the social security funds of the enterprise, office or organization.

Article 210. Types of benefit under the state social security system. Manual and non-manual workers and, where appropriate, members of their families, shall receive the following benefits from the state social security system:

(a) Temporary disability, pregnancy and confinement benefits;

(b) Benefits for the birth of a child and for burial;

(c) Pensions for old age, disability or loss of the breadwinner and also certain other types of pensions provided for by law.

The funds of the state social security system shall be used, apart from benefits and pensions, for organizing state holiday homes, care for manual and non-manual workers and members of their families at sanatoriums and health resorts, maintenance of Young Pioneers' camps, provision of special diets and other state social security measures.

It shall be forbidden to use state social security funds for purposes other than those for which they are intended.

Article 215. Old-age pension. Male manual and non-manual workers shall be entitled to an old-age pension at the age of 60 after total service of not less than 25 years and women manual and non-manual workers at the age of 55 after total service of not less than 20 years.

The following persons shall be entitled to an old-age pension on favourable conditions (the age and length of service, or simply the age, being reduced): manual and non-manual workers employed on underground work, work under harmful conditions or high temperatures, or other work under arduous conditions; women who have had four or more children and brought them up to the age of six years; and certain other categories of manual and non-manual workers.

## HEALTH CODE OF THE MONGOLIAN PEOPLE'S REPUBLIC
## of 27 June 1977

### Chapter 6. Maternal and child welfare

Article 55. Encouragement of motherhood and guarantees of the protection of the health of mother and child. In the Mongolian People's Republic motherhood shall be encouraged and protected by the State.

With a view to protecting the health of mothers and children in accordance with the legislation of the Mongolian People's Republic the system of maternal and child clinics, maternity homes, sanatoriums and state holiday homes, crèches and kindergartens shall be expanded; women shall be given maternity leave; breaks shall be allowed for feeding children; social security grants shall be paid on the birth of a child and during care of a sick child; it shall be forbidden to employ women on work involving arduous or harmful conditions; pregnant women shall be transferred to lighter work while keeping their average rate of pay; they shall be exempted from working in night shift; they shall be provided with healthy conditions at work and in everyday life; mothers of large families shall be paid allowances; and other measures shall be taken.

Article 56. Decision on the question of motherhood. For our women childbearing and motherhood constitutes their lofty duty to society, their happiness and joy.

If an abortion becomes necessary on the grounds specified in the law of the Mongolian People's Republic, it shall be carried out by a doctor specializing in the appropriate field, exclusively under hospital conditions, in accordance with the established procedure.

The list of illnesses which make an abortion necessary shall be drawn up by the Ministry of Health of the Mongolian People's Republic.

Article 57. Places of rest for pregnant women and mothers of new-born babies. State farms and agricultural associations shall set up out of their own funds places of rest for pregnant women and mothers of new-born babies and provide them with other services free of charge.

Article 58. Provision of medical assistance for pregnant women and new-born babies. The health service shall provide pregnant women with qualified medical supervision at the appropriate time, in-patient medical assistance at confinement and general health care for the mother and new-born child.

Article 59. Provision of medical care for children and adolescents. Medical care for children and adolescents shall be provided by children's polyclinics, clinics, hospitals, sanatoriums and other institutions concerned with medical care, disease prevention and health.

Children and adolescents shall be kept under supervision by clinics.

Article 60. Protection of the health of children and adolescents. With a view to raising a healthy younger generation, harmoniously developed in both body and mind, enterprises, offices, agricultural associations, trade unions and other organizations of the community shall organize and expand the system of crèches, kindergartens, schools, boarding schools, forestry schools, Young Pioneers' and labour camps and other children's institutions.

Article 61. Protection of children's health in children's institutions and schools. Crèches, kindergartens and schools shall provide conditions for protecting and strengthening children's health, bringing them up hygienically and teaching them good habits.

The amount of study and work to be done by children and the standard programme of activities for them shall be established by agreement with the Ministry of Health of the Mongolian People's Republic.

Article 62. Children's health protection checks. Checks to ensure that children's institutions and schools are carrying out measures to protect and improve children's health shall be undertaken by the health service jointly with the education service, and with the participation of community organizations.

Article 64. Maintenance of children with defective physical and psychological development. Children with defective physical or mental development shall be maintained and brought up at special crèches, homes and schools at State expense.

Article 65. Payment of benefits for care of a sick child. A person taking care of a sick child shall be released from work and be paid benefits in accordance with the law of the Mongolian People's Republic.

Article 66. Supervision of vocational training of adolescents and their working conditions. Adolescents shall be given vocational training in those occupations which correspond to their physical and mental development and state of health under the supervision of the health service.

Checks to ensure that adolescents' working conditions meet the requirements and that special measures to avoid illness are taken shall be carried out by the health service jointly with the corresponding ministries, departments, trade unions, youth organizations and other organizations of the community.

Article 67. Compulsory medical examinations for persons under age. Persons up to the age of 18 years shall be accepted for employment only after a preliminary medical examination.

Persons up to the age of 18 years, who are production workers, shall have medical examinations at least twice a year.

ORDER CONCERNING THE PAYMENT OF STATE
SOCIAL SECURITY BENEFITS

Approved by a decision of the Council of Ministers of
the Mongolian People's Republic on 18 November 1974

III. Maternity benefits

49. Women manual and non-manual workers shall be given leave for 45 calendar days before confinement and 56 calendar days after confinement, and in the event of an abnormal confinement or multiple birth post-natal leave shall be extended to 70 calendar days with payment of social security benefits.

50. Women manual and non-manual workers who have adopted new-born children in accordance with the legally established procedure shall be given leave from the date of adoption until 56 calendar days after the date of the birth of the child, with payment of benefits on the basis of a medical certificate in accordance with article 55 of this Order.

51. If the period from the day of release from work on maternity leave until the day of confinement is more than 45 calendar days, no benefit shall be paid for the days over and above the period allowed for pre-natal leave. If the period from the day of release on maternity leave until the day of confinement is less than 45 calendar days, post-natal leave shall be extended by the unused balance.

52. If a woman begins her maternity leave during her regular leave the benefit shall be paid on the normal basis and the regular leave shall be extended after the end of the post-natal leave.

If maternity leave is granted during leave without pay, benefit shall be paid for the days of such leave on the normal basis.

If maternity leave is granted during paid leave, benefit shall not be paid for the days of such leave.

53. Post-natal leave and benefits for a miscarriage occurring after the 196th day of pregnancy or because of an abortion undertaken on medical advice shall be determined in accordance with articles 49 and 55 of this Order.

54. In the event of a miscarriage occurring after the 196th day of pregnancy or an abortion undertaken on medical advice the benefit shall be paid on the normal basis.

In the event of an abortion undertaken without medical advice the benefit shall be paid from the 11th calendar day of unfitness for work.

55. Benefits shall be paid to women manual and non-manual workers during maternity leave at the rate of 50 per cent of their average monthly pay if they have continuous service of up to seven months and at the rate of 100 per cent of pay if they have continuous service of seven months or more.

56. Women manual and non-manual workers who have been awarded the "Glory of Motherhood" Order, first or second class, shall be paid benefit at the rate of 100 per cent of their pay regardless of their length of service.

57. Women manual and non-manual workers whose employment is terminated for reasons that are not their own fault (reduction in staff, transfer to new work because of husband's transfer, etc.) shall be paid maternity benefit, in respect of a confinement occurring within two months of termination, by their former place of work.

## IV. Childbirth benefit

58. A single childbirth benefit for looking after and feeding the child shall be paid when the child leaves the maternity home. This benefit shall be paid if the parents' average monthly wage over the last three calendar months does not exceed 600 tugriks.

If the child's mother works in arduous and harmful conditions, in high temperatures or in underground work, or if she has the "Glory of Motherhood" Order, first or second class, the benefit in question shall be paid regardless of the amount of her pay.

59. Even if the child is born after the death of its father, the enterprise, office or organization where he worked shall pay the childbirth benefit to the mother if she has no fixed work, and the deceased shall be considered the child's father if not more than 10 months has elapsed between the day of his death and the birth of the child.

60. The enterprise, office or organization shall pay a benefit for care of the new-born baby in the amount of 40 tugriks and a benefit for feeding the baby in the amount of 180 tugriks. In the event of a multiple birth the benefits shall be paid in those amounts for each child. Payment of the benefit shall be recorded by means of a stamp on the child's birth certificate.

61. In order to obtain childbirth benefit the following documents shall be produced:

(a) The child's birth certificate;

(b) Particulars of the parents' pay;

(c) A certificate from the administrative organs concerning the child's residence.

## PENSIONS ACT OF THE MONGOLIAN PEOPLE'S REPUBLIC of 28 March 1958

### II. Old-age pensions

Article 8. Men shall be entitled to an old-age pension on reaching the age of 60 years provided their total length of service is not less than 25 years and women on reaching the age of 55 years provided their total length of service is not less than 20 years.

Article 9. The following persons shall be entitled to an old-age pension on favourable terms if they have worked in arduous and harmful conditions, in high temperatures or underground, according to the list of occupations and functions approved by the State Committee on Work and Pay of the Council of Ministers of the Mongolian People's Republic and the Central Council of Mongolian Trade Unions:

(a) Women on reaching the age of 45 years if their length of service is not less than 15 years, of which not less than seven years and six months shall have been spent working in harmful conditions, in high temperatures or underground;

(b) Women on reaching the age of 50 years if their length of service is not less than 20 years, of which not less than ten years shall have been spent working in arduous conditions.

Manual and non-manual workers who meet the conditions regarding age and length of service laid down in this article shall be paid a pension on favourable conditions regardless of where they worked beforehand or afterwards.

Article 10. Women who have given birth to four or more children and brought them up to the age of six years shall be entitled to an old-age pension at the age of 50 if they have not less than 15 years' service.

## FAMILY CODE OF THE MONGOLIAN PEOPLE'S REPUBLIC
dated 19 April 1973

### Chapter I. Basic provisions

Article 1. Aims of the Family Code. The purpose of the Family Code of the Mongolian People's Republic is to further strengthen the family on the basis of the principles of communist morality, to protect the interests of the parents, children and other members of the family, to increase the spouses' sense of responsibility for the fulfilment of their obligations to society and to eliminate all survivals of past practices in the family and in everyday family relations.

Article 2. Relations regulated by the Family Code. The Family Code of the Mongolian People's Republic regulates relations arising in connection with the conclusion and dissolution of a marriage, personal and property relationships between the spouses, between parents and children and between other members of the family and relations connected with adoption and guardianship and with the registration of civil status.

Article 3. Principles of the family. Married life in the Mongolian People's Republic shall be based on the principles of freedom of choice, mutual love, respect, comradely co-operation and mutual assistance of the persons concluding the marriage.

In the Mongolian People's Republic it shall be forbidden to enter into marriage with two or more persons at the same time.

Article 4. Registration of the marriage and its validity. Both in the interests of the State and society and with the aim of protecting the personal and property rights and interests of the spouses and other members of the family, it shall be compulsory for marriages to be registered with the State. If they are not, the rights and duties of the spouses set forth in this Code shall not apply.

In the Mongolian People's Republic a marriage shall be recognized as valid if it has been registered by the civil registry office or if it was concluded before 1951. If the spouses can prove that they concluded the marriage before this Code came into force, they shall be entitled to register the marriage on the date on which it was actually concluded.

Article 5. Equal rights in family relations. Citizens of the Mongolian People's Republic shall enjoy equal rights in family relations.

Any restriction of citizens' rights or granting of advantages in relation to the conclusion of a marriage or other family relations on grounds of nationality, race or religion shall be prohibited.

Article 6. Protection of the interests of mother and child. The health and interests of mother and child shall be protected by the State by guarantees of the equality of men and women in everyday life, supervision of children's health by clinics, expansion of the system of maternity homes, crèches, kindergartens, boarding schools and other children's institutions and also by giving women engaged in socially useful work paid maternity leave, granting them various privileges, improving labour protection, paying state pensions to mothers of large families and other measures.

## Chapter II. Principles of marriage

Article 8. Conditions governing the conclusion of a marriage. For a marriage to be concluded the following conditions must be met:

1. The parties concluding the marriage must do so of their own free will, by common consent;

2. They must have reached marriageable age.

Article 9. Marriageable age. In the Mongolian People's Republic the marriageable age for men and women shall be 18 years.

Article 11. Procedure for conclusion of a marriage. It shall be compulsory for marriages to be concluded at the civil registry office.

Registration of the marriage shall be performed in a ceremonial setting, and also at the wish of the parties at their residence or elsewhere.

Article 12. Time limit for registration of a marriage. A marriage shall be registered at the registry office within a month of the receipt of the application of the persons wishing to conclude the marriage.

Where there are valid reasons the above period can be extended to three months by the executive office of the local khural of people's deputies.

## Chapter III. Rights and duties of the spouses

Article 13. Coming into force of the rights and duties of the spouses. The rights and duties of the spouses shall come into force from the time of the registration of the marriage at the civil registry office.

Article 14. Right to choose occupation, work and residence. The spouses shall be entitled to choose their occupations, work and residence within the limits of the territory of the Mongolian People's Republic.

Article 15. Duties of the spouses. The spouses shall be required to:

1. Contribute to the strengthening of the family and the introduction of communist morality and culture in family relations;

2. To take an equal part in housework and to give each other assistance in obtaining education and improving their qualifications and in performing their civic duties conscientiously.

Article 16. Common joint property of the spouses. All the property and savings, and also the subsidiary personal effects accumulated by the spouses during the marriage, shall be regarded as common joint property of the spouses. The property accumulated during the marriage shall be considered the common joint property of the spouses regardless of whose pay - the husband's or the wife's - it was bought with and which of them is recorded as the owner of the property.

Cases covered by the third paragraph of article 18 of this Code shall be exceptions to this rule.

The property of each of the spouses may be declared to be their common joint property if it is established that what has been put into it during the marriage has considerably increased the value of the property in question.

The spouses shall be entitled to agree that the property belonging to each of them before marriage or part of that property shall be included in their common joint property.

Article 17. Possession and use of common joint property and arrangements concerning it. Each of the spouses shall have an equal right to possess and use the common joint property and to make arrangements concerning it.

The possession and use of the common joint property and arrangements concerning it shall be decided by mutual agreement between the spouses.

If a dwelling, yurta (nomad's tent) or motor car belonging to the spouses is to be alienated to other persons the agreement of the other spouse must be obtained in writing.

Article 18. Personal property of each of the spouses. The following shall be recognized to be the personal property of each of the spouses:

(a) Property and savings belonging to each of the spouses before marriage and not included by them in the common joint property;

(b) Property and savings acquired by each of the spouses during the marriage by gift or inheritance.

Items for personal use (clothing, footwear, other articles of attire and personal adornment, etc.), with the exception of jewellery, even if acquired out of the spouses' joint resources, shall be recognized as the personal property of the spouse who used them.

Where there are valid reasons for doing so, a court shall be entitled to recognize as the personal property of each of the spouses property accumulated by each of them out of their earnings while living separately.

Article 19. Determination of the spouses' shares in common joint property. In the event of a dispute between the spouses, each one's share of the common joint property shall be determined by a court.

In dividing up the common joint property, the court shall proceed on the principle that the spouses should have equal shares; however, in individual cases, in the light of the interests of the children or of one of the spouses, it shall be entitled to establish a different division. The share of either of the spouses may be increased if the other spouse has refrained from socially useful work or spent the common property to the detriment of the family's interests.

When the property is divided up, if one of the spouses is given items of greater value than the share due to him or her, the other spouse may be awarded corresponding monetary compensation by the court.

## Chapter IV. Dissolution of marriage

Article 25. Grounds for dissolution of marriage. A marriage which has been dissolved at the wish of the spouses by divorce through the civil registry office or by a court in accordance with the procedure laid down by this Code shall be terminated.

A marriage shall be terminated if one of the spouses dies or is declared dead in accordance with judicial procedure.

Article 26. Dissolution of marriage by administrative procedure. A marriage shall be dissolved by the civil registry office at the request of the spouse concerned if one of the spouses:

1. Is recognized to have disappeared without trace;

2. Is sentenced to deprivation of freedom for not less than five years and serves the sentence.

If a spouse in prison raises an objection about the children, about the division of the property or about the payment of maintenance, the dissolution of the marriage shall be effected through a court.

Article 27. Dissolution of a marriage by common consent. When spouses not having children who have reached the age of 18 years [1/] agree to dissolve the marriage, the civil registry office shall dissolve the marriage and within three months of the receipt of their application shall issue them with a certificate stating that the marriage has been dissolved.

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1/ Translator's note. Sic.

A state fee of 300 tugriks shall be charged for the marriage dissolution certificate.

If there is any dispute between the spouses the matter of the dissolution of the marriage shall be dealt with by a court.

Article 28. Dissolution of a marriage by judicial procedure. Cases concerning dissolution of marriage shall be heard by a court as actions brought in accordance with the Civil Procedure Code of the Mongolian People's Republic.

In order to protect the interests of the spouses and their children, the court shall establish the grounds for divorce, and where necessary, take measures to reconcile the spouses by postponing the hearing of the case for six months.

The marriage shall be dissolved by the court if the spouses cannot arrive at a reconciliation or if their reconciliation would conflict with the principles of communist morality.

Article 29. Settlement of disputes concerning children. When a court dissolves a marriage, it shall be required to decide which of the parents which of the children should stay with.

The court shall decide this matter in the light of the interests of the parents and the children, the age of the children, their need for parental care and the capacity of each of the parents to provide the children with the best upbringing.

When the courts consider disputes connected with the upbringing of children under the age of 9 years they shall where necessary hear representatives of the health and guardianship authorities, and in the case of children aged 9 years or more the wishes of the children themselves shall be taken into account.

## Chapter VII. Adoption

Article 48. Adoption procedure. Adoption shall be carried out with the approval of the executive office of the local khural of people's deputies solely in the interests of the adoptee, with due observance of the conditions laid down in this Code.

Article 49. Cases assimilated to adoption. Adoption may be carried out without the procedure provided for in article 48 of this Code, provided it will not harm the interests of the adoptee, in the following cases:

1. When upon the conclusion of the marriage one of the spouses has agreed to bring up a child of the other spouse as his or her own;

2. When the adopter has agreed with a brother, sister, son or daughter to adopt his or her child, or, in the absence of the child's parents, has so agreed with the guardianship authorities.

Article 50. Age of adopted children. Children may be adopted up to the age of 16 years, but those under the age of one year may only be adopted in the following circumstances:

1. If the health of the child's mother is such that she cannot breastfeed it;

2. If one of the parents is suffering from a mental or other serious chronic illness or is crippled in such a way that the parents cannot give the child a normal upbringing;

3. If the parents are not in a position to provide the necessary conditions for the child's upbringing;

4. If the parents or the child's mother have died or disappeared without trace.

Article 51. Conditions governing adoption. In order to adopt a child it is necessary to obtain the written agreement of its parents or the agreement of the guardianship authorities.

The agreement of the child itself shall be required if it has reached the age of nine years, and in the case of children under the age of three years the agreement of the health service shall be necessary.

The parents' agreement shall not be required for adoption of their child if they have been deprived of parental rights or disappeared without trace or decline to participate in the child's upbringing or have been declared incapable because of mental illness, or if their residence has been unknown for at least a year.

Article 54. Right of adoptee to pension and benefit. Children who have been receiving a pension for loss of the breadwinner shall retain the right to it when adopted by third persons.

A woman who adopts a child under the age of one year shall be entitled to post-natal leave and to the single childbirth grant for care and feeding and shall have all the advantages of a nursing mother laid down by the law of the Mongolian People's Republic.

## Chapter XIII. Registration of the civil status of aliens and stateless persons living in the Mongolian People's Republic

Article 107. Conclusion of marriages between Mongolian citizens and aliens and between aliens in the Mongolian People's Republic. The conclusion of marriages between Mongolian citizens and aliens and marriages between aliens in the territory of the Mongolian People's Republic shall be carried out on the basis of the provisions of this Code.

The conclusion of marriages between Mongolian citizens and aliens shall not entail any change in the nationality of either party.

Article 108. Application of the family legislation of the Mongolian People's Republic to stateless persons. The conclusion of marriages between Mongolian citizens and stateless persons and marriages between stateless persons in the territory of the Mongolian People's Republic shall be carried out in accordance with the provisions of this Code.

Article 109. Registration of the civil status of Mongolian citizens living outside the Mongolian People's Republic. Registration of the civil status of Mongolian citizens living outside the Mongolian People's Republic shall be carried out on the basis of the family legislation of the Mongolian People's Republic by the consulates attached to the diplomatic missions of the Mongolian People's Republic in other countries.

Marriages concluded between Mongolian citizens outside the Mongolian People's Republic which comply with the marriage procedure laid down by the family law of foreign States shall be recognized as valid in the Mongolian People's Republic if there are no obstacles to such recognition under articles 8 to 10 of this Code.

Marriages of aliens concluded outside the Mongolian People's Republic in accordance with the law of the States concerned shall be recognized as valid in the territory of the Mongolian People's Republic.

Article 110. Registration of the citizenship of children. When registering the birth or adoption of children, the civil registry office shall at the same time register their citizenship, being governed in this by the Citizenship Act of the Mongolian People's Republic.

Article 111. Dissolution of marriages between Mongolian citizens and aliens or stateless persons in the Mongolian People's Republic. Dissolution of the marriage shall be carried out in accordance with the present Code if one of the spouses wishing to dissolve the marriage in the territory of the Mongolian People's Republic is a Mongolian citizen.

Evidence of dissolution of a marriage outside the Mongolian People's Republic shall be recognized as valid if at the time of dissolution of the marriage one of the spouses was a Mongolian citizen.

Evidence of dissolution of a marriage between Mongolian citizens outside the Mongolian People's Republic shall be recognized as valid.

Mongolian citizens living abroad shall be entitled to dissolve their marriages through the judicial organs of the Mongolian People's Republic.

Article 112. Dissolution of marriages between aliens. Dissolution of marriages between aliens in the Mongolian People's Republic shall, if they wish, be carried out in accordance with the procedure established by this Code.

Dissolution of marriages between aliens outside the Mongolian People's Republic shall be recognized as valid.

Article 113. Application of the laws of foreign countries and international agreements and treaties. The family legislation of foreign States may not be applied nor may changes of civil status effected on the basis of such legislation be recognized as valid if that would conflict with the basic principles of the state system of the Mongolian People's Republic.

If an international treaty or agreement to which the Mongolian People's Republic is party establishes rules which are different from those contained in the family legislation of the Mongolian People's Republic, the rules of the international treaty or agreement shall apply.

ACT ON THE JUDICIAL SYSTEM OF THE MONGOLIAN PEOPLE'S REPUBLIC

Approved by Decree No. 302 of the Praesidium of the
Great People's Khural of the Mongolian People's
Republic dated 25 December 1978

Article 5. Equality of citizens before the law. Justice shall be administered in the Mongolian People's Republic on the basis of equality of citizens before the law and before the courts regardless of their sex, race, nationality, religion or social, property or official status.

Summary of the report

INTRODUCTION

Since the Committee mentioned in article 17 of the Convention has not yet approved the guidelines for the report, we have decided to begin with an analysis of the social and legal situation in Portugal at the time of ratification of the Convention, going on to deal with subsequent changes, and concluding with a list of the difficulties affecting implementation of the Convention.

I. Situation in Portugal at the time of ratification

The Convention was ratified without reservations.

1.1.
Part I of the Convention. Portuguese law in relation to the general provisions

The provisions which follow are of a general nature; they are in conformity with Portuguese law and affirm that:

- The aim of the Convention is to eliminate discrimination on grounds of sex rather than to protect women;

- The adoption of special interim measures in order to ensure effective equality in practice is not regarded as a discriminatory act;

- Measures must be adopted in order to change attitudes, eliminating prejudices and male and female "role stereotyping".

1.2.
Part II of the Convention. Political rights and the elimination of discrimination in this regard

- The law does not discriminate with respect to the political capacity of women and their opportunities for participation; in our country, however, the participation of women in politics and civic affairs is still very limited.

1.3.

Part III of the Convention. Economic and social rights

1.3.1. EDUCATION

- Portuguese law ensures that women enjoy the same access to education as men.

- In Portugal, efforts have been made to eliminate old stereotypes and prejudices handed down by education.

1.3.2. WORK, employment, conditions of social security and health, and protection for working women during pregnancy:

- The Constitution guarantees the equality of men and women with respect to work;

- Decree-Law No. 392/79 provides for the elimination of all forms of discrimination in connection with access to employment, vocational training, working conditions and pay and promotion in employment;

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Against Women (CEDAW)

CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES
UNDER ARTICLE 18 OF THE CONVENTION

Initial reports of States Parties

PORTUGAL

V.84 89454

- The Commission for Equality in Work and Employment (CITE) has been set up;

- Social security rights are the same for men and women;

- Conditions of health at work include protection during maternity (in accordance with article 11, paragraph 2, of the Convention); like the reproductive function of men and women (in conformity with article 11, paragraph 1(f), of the Convention), this is not regarded as a form of discrimination;

- There is no discrimination with regard to work on grounds of marriage or maternity (in accordance with article 11, paragraph 2(a), of the Convention);

- Dismissals on the grounds of pregnancy or recent confinement are prohibited by law (in conformity with article 11, paragraph 2(a), of the Convention);

- A period of maternity leave for confinement, and financial assistance for that purpose, are provided for by law (in conformity with article 11, paragraph 2(b)).

1.3.3. Health

- Access to medical care is without discrimination on grounds of sex;

- However, the medical care available during pregnancy is inadequate.

1.3.4. Other economic and social aspects

- Portuguese law does not discriminate in the cases envisaged in article 13 of the Convention.

1.3.5. Rural women

- Although there is no legal discrimination in this regard, much remains to be done to improve the status of rural women along the lines envisaged by article 14 of the Convention.

1.4

Part IV of the Convention. Civil rights

1.4.1. Civil and procedural law

- Prior to the 1976 Constitution, equality of men and women was guaranteed in civil and procedural law.

1.4.2. Family law

- There has been complete equality between men and women in family law since the entry into force of Decree-Law No. 496/77 of 25 November.

1.4.3. Family planning

- There is no discrimination in access to family planning.

1.4.4. The law stipulates that the minimum age for marriage is 16 years.

2. Developments since ratification of the Convention

2.1. Legislative measures

- Developments in Portuguese law can be regarded as positive in the context of the provisions of the Convention.

2.1.1. With regard to equality between men and women, the provisions of the revised version (in force since 30 September 1982) of the 1976 Constitution are much more clearly aimed at ensuring de facto equality in practice and at eliminating male and female role stereotyping than the earlier version of 1976.

2.1.2. Nationality Law

- Law No. 37/81 gives women rights equal to those of men in respect of nationality (in conformity with article 9 of the Convention).

2.1.3. Advertising Code

- Decree-Law No. 421/80 prohibits any advertising which might lead to discrimination of a sexist nature.

2.1.4. Framework Law for the Protection of the Family

- Decree-Law No. 503/80 affirms the principles of equality between fathers and mothers with regard to parental rights and the organization of working time. So far this Law is merely programmatic in character, since it has yet to be supplemented by regulations.

2.1.5. Allowance for taking care of a sick child

- In accordance with Decree No. 89/81 of 14 July, this allowance may be given either to the father or to the mother.

2.1.6. Supplementary tax

- Decree-Law No. 183 F/80 of 9 July eliminates the severe discrimination which previously applied in this area.

2.1.7. Maternity Law

- This Law has been approved in general terms but has not yet been published. First and foremost it provides for the correct interpretation of what is intended as the protection of motherhood against the problem of discrimination on grounds of sex.

2.2. Additional measures, other than legislation, adopted in order to eliminate discrimination on grounds of sex

- Implementation of institutional arrangements.

2.2.1. The Commission for Equality in Work and Employment (CITE) is authorized to deal with specific cases of persons who may feel themselves to be victims of discrimination in work or employment.

2.2.2. The Parliamentary Commission on the Status of Women has legislative authority.

2.2.3. The Commission on the Status of Women, which functions on an intersectoral basis with competence to deal with all aspects of the status of women, is engaged in activities aimed at eliminating discrimination, including:

- Project for changing attitudes;
- Project for women's vocational training;
- General information for women.

3. Factors and difficulties affecting the degree of fulfilment of the obligations imposed by the Convention

3.1. Difficulties in implementing legislation already promulgated:

- With respect to the Advertising Code;

- With respect to Decree-Law No. 503/80.

3.2. Education

- Difficulties in ensuring de facto equality between boys and girls in education:

  - Traditional options;

  - The labour market.

3.3. Work

- Difficulties in ensuring de facto equality between male and female workers:

  - The impact of the economic crisis on the unemployment of women;

  - Short-term contracts;

  - Lack of child-care facilities.

3.4. Equality with men in political and civic participation:

  - Difficulties in ensuring effective participation;

  - Cultural factors;

  - Double burden.

3.5. Difficulties in changing attitudes:

  - Women's lack of awareness of discrimination;

  - Women's failure to know their rights;

  - Maintenance.

4. CONCLUSION

- The effective elimination of discrimination depends primarily on awareness of the problem and on the adoption of measures at the decision-making level.

## INTRODUCTION

Article 18 of the Convention clearly specifies the content of the report which States Parties are to submit to the Secretary-General of the United Nations and which will be considered by the Committee.

The report is to cover the legislative, judicial, administrative or other measures adopted to give effect to the provisions of the Convention, and the progress made in this respect.

Paragraph 2 of this article also states that the reports may indicate factors and difficulties affecting the degree of fulfilment of obligations under the present Convention.

The provisions of article 18 clearly indicate that the States Parties should mention in their reports the measures taken after ratification of the Convention, particularly with respect to progress achieved in their countries since that time. However, it also seems to us worthwhile to mention the measures taken in our country before ratification with the aim of eliminating discrimination against women on the same lines as the objectives laid down by the Convention.

It is for the Committee envisaged in article 17 of the Convention to draw up the specific rules which the States Parties are to follow in preparing their reports, in order to enable the Committee to carry out an analysis on the basis of a uniform criterion.

In view of the fact that the Committee has not yet drawn up these rules, which are to be distributed to the States Parties, probably in the form of a sample questionnaire, and the fact that Portugal has to submit its report now, in conformity with article 18, paragraph (a), of the Convention, we have decided to use the following procedure in preparing this report:

1. Analysis of the situation in Portugal at the time of the country's ratification of the Convention, in the light of the provisions of the Convention itself;

2. Changes since ratification;

3. Factors and difficulties standing in the way of better and more effective implementation of the provisions of the Convention.

## 1. ANALYSIS OF THE SITUATION IN PORTUGAL AT THE TIME OF THE COUNTRY'S RATIFICATION OF THE CONVENTION AND COMMENTS ON ITS SUBSTANCE

The adoption of the Convention on 18 December 1979 at the 107th plenary meeting of the thirty-fourth session of the United Nations General Assembly took on particular importance in the light of the fact that it occurred during the first half of the United Nations Decade for Women, at a time when a strategy for the second half of the Decade was to be adopted.

Portugal was one of the first countries to ratify the Convention, at the Copenhagen Conference in July 1980. The fact that it did so without reservations clearly shows that our legal system was fully in accordance with the principles upheld by the Convention.

The most important part of the Convention is to be found in the 16 articles prohibiting discrimination against women.

### 1.1. PART I OF THE CONVENTION: PORTUGUESE LAW IN RELATION TO THE GENERAL PROVISIONS

Although the title might suggest that the Convention is intended solely to improve the current status of women, it is clear that some of its provisions are aimed at achieving a de facto balance in the status of the two sexes, that is, the elimination of all discrimination based on sex (article 5, article 10, paragraph (c), and article 11, paragraph 1 (c)).

It is thus not a matter of giving special protection to women as such, but rather of providing them with specific assistance for maternity in the biological sense (see the text of article 4, paragraph 2, together with article 5, paragraph (b)).

Article 1 gives a definition of what is to be regarded as discrimination: the definition is negatively qualified in article 4, which clearly specifies what should not be considered discriminatory.

At the time of ratification, the legal system in Portugal was already in accordance with the general principles of the Convention.

Thus, article 13 of the 1976 Constitution prohibits discrimination on grounds of sex; article 36, paragraph 3, states that spouses have the same rights and duties with respect to civil and political capacity, subsistence and education of children; article 52, paragraph (e), affirms that "the State shall ensure that access to all posts, work or professional levels whatsoever shall not be prohibited or restricted according to sex", while article 53, paragraph (a), mentions that the principle of "equal pay for equal work" must always be upheld.

At the same time, protection of maternity is guaranteed by the 1976 Constitution, which accords it appropriate social importance (in article 68

and article 54, paragraph (c)) in conformity with the principle in article 4, paragraph 2, of the Convention that such protection should not be considered discriminatory.

The same is true of the principle in article 4 of the Convention that the possible adoption by States Parties of temporary measures aimed at accelerating the establishment of de facto equality - and not only in deed - between men and women should not be considered discrimination as defined in the Convention.

In fact, the principle itself is expressed in Decree-Law 392/79 of 20 September, on equality in work and employment, which provides for such possible measures for achieving the objective of the Convention.

The Convention includes, in article 5, a further general principle, the aim of which is to modify the social and cultural patterns and models of conduct of men and women.

In this connection it is also true to say that the provisions of the Portuguese Constitution are aimed at achieving not only legal but also de facto equality.

With that aim in view, article 52, paragraph (c), on access to employment, clearly guarantees equal opportunity while stipulating that such access shall not be blocked or restricted on grounds of sex: this promotes a policy which ensures, in practical terms, the conditions of de facto equality established by the law.

In addition to the congruence of the general principles of the Portuguese Constitution with those of the Convention, the requirement in the Convention that the legislation of States Parties be amended to remove all points of discrepancy with the principles of the Convention is complied with in the case of Portugal by a constitutional imperative.

With the aim of ensuring conformity, almost all discriminatory legislation had already been amended by the time Portugal ratified the Convention.

By that time a number of measures had already been taken with a view to changing traditional customs and practices which were discriminatory, within the definition in articles 2, 5 and 6 of the Convention, on grounds of sex.

Thus, after the promulgation of the 1976 Constitution, and for the first time in the history of Portugal, an entire section devoted solely to the status of women was incorporated in the Government's programme. This envisaged a new and more efficient structure for the Commission on the Status of Women, and with that aim in view the Commission has been made directly responsible to the Prime Minister.

The programme referred to the resolutions of the International Conference for International Women's Year, held in Mexico, mentioning in particular that "the primary concern should be to incorporate the principles laid down in articles 13, 36, 52, paragraph (c), 53, 54, paragraph (e), 67 and 69 of the Constitution into normal legislation and into daily life."

It is becoming evident that such measures will have to be taken over a long period, against a background of continuity, and that they will have a very specific impact on the use of the educational resources mentioned in article 5 of the Convention. Ultimately, it is a matter of achieving a change of attitude on the part of everyone, both men and women, with respect to their idea about the roles of the two sexes in the society we live in: such a programme, which is of a continuing nature, can only yield worthwhile results in the medium term.

1.2. PART II OF THE CONVENTION RELATES TO POLITICAL RIGHTS AND THE ELIMINATION OF DISCRIMINATION IN THAT REGARD

Portuguese law recognizes equal rights for men and women in the areas mentioned in article 7.

With respect to article 8, women have been admitted to diplomatic careers since 1974.

At present, of 322 diplomatic personnel, 30 are women, a proportion of 9 per cent.

Women were given access to the judiciary from 1974 on. At present, 18 women are serving as judges and 101 are already training to become judges.

In the case of Assistant Public Prosecutors and Representatives of the Public Prosecutor's Office, women make up 125 of the total of 450.

With respect to article 9, at the time of ratification of the Convention by Portugal, a Law which discriminated against women was still in force but, as will be mentioned later, this discrimination no longer applies.

1.3. PART III OF THE CONVENTION RELATES TO THE ELIMINATION OF DISCRIMINATION IN ECONOMIC AND SOCIAL RIGHTS

1.3.1. Article 10, on education, provides two types of priorities:

On the one hand, women are to be guaranteed de facto equality with men with respect to access to education (paragraphs (a), (b), (d), (e), (f), (g));

On the other hand, the goal to be attained is to bring about a change in the attitudes of individuals to the roles of men and women in society (paragraph (c)).

From the legal and institutional point of view, there are no obstacles to equal access for boys and girls to the same programmes at all levels of instruction.

Since 1975, when primary and preparatory education became compulsory, programmes involving manual work, which had previously been different for boys and girls, have been shared by the two sexes.

Training colleges for kindergarten teachers have always been open to both sexes, but in practice they are attended only by girls.

The Nautical School was also opened definitively to women in 1976.

Measures proposed by the Commission on the Status of Women continue to be applied in order to combat the stereotyped ideas handed down by education.

The Commission will carry out an entire programme for informing and training primary school teachers and students in primary school teacher training colleges.

The aim is to provide teaching experience in order to give primary school teachers very specific guidelines on the various ways of elimininating stereotyped ideas about women.

An agreement is currently being signed between the Commission on the Status of Women and the Ministry of Education with the aim of implementing this policy at all levels of instruction.

1.3.2. Article 11 concerns work and employment, social security, health, and maternity protection for working women

As stated earlier, the 1976 Constitution had already guaranteed the equality of men and women with respect to work (article 52 (c) and article 53 (a)).

A Decree-Law (No. 392/79 of 20 September) was promulgated in 1979 with the specific aim of providing regulations to implement the constitutional principle of eliminating all discrimination in access to employment, vocational training and working conditions, particularly with respect to pay and promotion. This document also provided for the establishment of a special body, the Commission for Equality in Work and Employment, whose task is to ensure that the relevant provisions and the principle of equality in work and employment are effectively observed in practice.

There is no discrimination in social security between male and female workers.

However, we must draw attention to certain considerations relating to health protection and safety at work, including the safeguarding of the function of reproduction mentioned in article 11, paragraph 1 (f).

There is no discrimination as to health protection between male and female workers.

When maternity health care is regarded as part of the safeguarding of the reproductive function, such care cannot be considered discriminatory. In fact, article 54 (c) of the Constitution provides for special protection at work during pregnancy and after childbirth, i.e. throughout the biological cycle of maternity.

However, Portuguese legislation regarding the safeguarding of the function of reproduction should be improved.

Decree-Law No. 49.408, which deals with individual labour contracts, entitles women during pregnancy and after childbirth to decline work which could involve physical risks, either of toxicity or of mechanical trauma. There is no comparable regulation, however, for the public service.

In addition, Decree-Law No. 392/79 on equality in work and employment states that any work legally certified as involving actual or potential risks to the reproductive function is prohibited, thus providing protection for the reproductive function of men and women on a non-discriminatory basis.

Article 11, paragraph 2, affirms that there shall be no discrimination against women in employment on the grounds of marriage or maternity, and provides for maternity leave and the right to the appropriate benefits.

The 1976 Constitution recognizes maternity as a cardinal social value (article 68) and provides for the right to a period of leave before and after childbirth without loss of pay or privileges (article 68, paragraph 2). These rights are fully upheld by law, as is leave on the grounds of maternity or marriage (Decree-Law No. 392/79 of 20 September, the regulations for individual labour contracts in connection with Decree-Law No. 49.408 and the regulations for the public service).

Decree-Law No. 112/76 of 7 February stipulates maternity leave of 90 days for childbirth together with appropriate benefits (in accordance with article 11, paragraph 2 (b), of the Convention).

Paragraph (c) lays down a programme and is generally in agreement with article 68 of the Constitution, which provides that mothers shall have the right to further their careers and to participate actively in the country's public life.

Exactly the same comments can be made in connection with subparagraph (d) as were made with regard to article 1 (f).

1.3.3. Article 12, on health care, affirms in paragraph 1 the principle of non-discrimination against women in access to medical services, including those related to family planning.

Portuguese law, and our Constitution in particular, guarantees all citizens the right to health, without discrimination of any kind (article 64, paragraph 1). The State is required to uphold this right (article 64, paragraph 3), to see to the distribution of family planning methods and to organize the relevant legal and technical services in order to achieve that aim (article 67 (d)).

Paragraph 2 of this article, which relates to health care and nutritional services during pregnancy and confinement, and in the period immediately following childbirth and during lactation, sets forth an entire programme which, in Portugal, will require further efforts to ensure its implementation.

1.3.4. Article 13 relates to the elimination of discrimination in other fields. Since Decree-Law No. 197/77 of 17 May ended discrimination on grounds of sex in connection with family allowances and other benefits, Portuguese legislation makes no discrimination in that respect.

1.3.5. Article 14, on rural women, is essentially a programme. From a legal point of view, now that uniformity in pensions for rural workers has been achieved (thus eliminating the distinction between "pensions for men and pensions for women"), no discrimination applies in this sector. In practical terms, much undoubtedly remains to be done to improve the status of rural women.

1.4. **PART IV OF THE CONVENTION DEALS WITH CIVIL RIGHTS: ARTICLE 15 IS GENERAL IN NATURE, WHILE ARTICLE 16 DEALS SOLELY WITH FAMILY LAW**

1.4.1. Even before the 1976 Constitution (except as regards family law), equality between men and women in civil law and proceedings was already guaranteed, except in some minor respects.

As far as Portugal is concerned, article 15, paragraph 3, of the Convention, which is aimed at eliminating the possibility of restricting the legal capacity of women, would not be necessary, since no such restricting clause exists in Portuguese law.

1.4.2. Since the Constitution, and particularly after the revision of the Civil Code by Decree-Law No. 496/77 of 25 November, Portuguese legislation conforms to article 16 of the Convention.

Full equality as regards the rights and responsibilities during marriage and at its dissolution, and also in personal and property matters and matters involving the children, is now guaranteed by law (see articles 1601 to 1636, 1671 et seq., 1677 et seq., and 1901 et seq. of the Civil Code).

As stipulated by article 16, paragraph 1 (d), of the Convention, Portuguese law also requires that the interests of the children shall be paramount and that these interests shall be taken into account in all matters where children are concerned (articles 1875-2, 1878-1, and 1905-2 of the Civil Code).

1.4.3. Similarly, as regards family planning and, more specifically, the section on the rights of children, in general, Portuguese legislation is entirely in accord with the provisions of the Convention: the interests and well-being of the children are considered paramount (articles 1931-1, 1935, 1974 and 1990-3 of the Civil Code).

1.4.4. Neither betrothal in marriage nor marriage itself is possible below the age of 16 years, which is the minimum age required and established by law. Under the age of 18, or before attaining the age of majority, the authorization of the legal representative is always required, this being obligatory under articles 1601 (a), 1604 (a), 1631 and 1651 of the Civil Code.

2. CHANGES OCCURRING SINCE RATIFICATION OF THE CONVENTION:

Portugal signed the Convention without reservations in July 1980, and has thus undertaken, on an individual and formal basis, to uphold the status of its female citizens in all respects and without discrimination of any kind.

We should now proceed to analyse the changes in Portuguese law and the measures taken since ratification, as required by article 18 of the Convention.

## 2.1. DEVELOPMENT OF PORTUGUESE LAW

The development of Portuguese law in relation to the provisions of the Convention can be regarded as highly positive. Progress has been made in constitutional principles; some vestiges of discrimination in legislation have been eliminated; and new laws have been promulgated in order to comply with the obligations imposed by the Convention.

### 2.1.1. Revision of the Constitution

The 1976 Constitution was revised for the first time by Constitutional Law No. 1/82 of 30 September 1982.

Equality between men and women is thus assured in all areas - family, employment, and participation in civic and political life - and the social function of maternity is also recognized.

The new wording of article 67, which affirms the right of the family to the protection of society and the State, also establishes the right to the creation of every condition to enable members of the family to achieve personal fulfilment: this is clearly aimed at attaining de facto equality and not merely legal equality.

In addition, the new text of article 68 stresses the social function of both maternity and paternity, and guarantees fathers and mothers the protection of society and the State, by providing them with the conditions for effective career development and participation in the country's civic life.

The purpose of this constitutional provision is to achieve "a change of attitudes" on the lines affirmed in article 5 of the Convention, in other words, "to modify the social and cultural patterns of conduct of men and women... which are based on the idea of the inferiority or the superiority of either of the sexes or on stereotyped roles for men and women".

### 2.1.2. Nationality Law

At the time when Portugal ratified the Convention, it was article 9 which, from the legal point of view, presented the greatest obstacle to ratification, since the present Nationality Law, which affirms the principle of non-discrimination against women with respect to the acquisition and loss of nationality and the nationality of children, was not yet in force. Under previous legislation women could change nationality automatically as a result of marriage (Law 2098 of 29 July 1959, sections I, IV, V, X, XIII (c)).

At the time, it was felt, however, that, in view of the fact that this Law was unconstitutional and that a new Nationality Law was expected to be promulgated even before the Convention entered into force, the Convention could properly be ratified without reservation.

Law No. 37/81 of 3 October sets forth the conditions for granting nationality, whether original, acquired or relinquished.

This Law represents a new stage in that it effectively brings Portuguese law into harmony with the constitutional principle of equality before the law.

Under this Law women gained the same rights as men in acquiring, changing or retaining their nationality and also with respect to the nationality of the children, in accordance with the obligations undertaken at the time of ratification of the Convention and, specifically, the provisions of article 9.

2.1.3. Advertising Code

Decree-Law No. 421/80 of 30 September prohibits advertising likely to promote sexual discrimination, and thus does not permit any advertisement which might suggest that women were inferior or subordinate to men, or which relegates them to their traditional role of housewife.

The use of pictures of women to promote goods or services of which women are not the sole consumers is also prohibited.

2.1.4. Framework law for the protection of the family

Decree-Law No. 503/80 of 20 October makes both parents (father and mother) responsible for the education of their children and sets forth principles of family policy and compatibility between vocational activity and family responsibilities. One of these principles provides for the introduction of subsidized parental leave, which may be granted either to the father or to the mother, in order to enable them to look after their children; other principles establish the possibility of flexible working hours and half-day work for parents who have to look after their children.

The provisions for implementing this Law have not yet been enacted, so it remains programmatic in character.

2.1.5. Allowance for parents who have to look after a sick child

Decree No. 89/81 of 14 July gives a working father the right, already accorded the mother, to look after a sick child, under certain conditions.

This Decree is valid both for the public sector and for private enterprises.

2.1.6. Supplementary Tax

The effect of Decree-Law 183-F/80 of 9 July, which modified the Supplementary Tax Code, was to eliminate a serious form of discrimination against married women which was a feature of the previous legislation. The married woman, who was regarded as being the husband's responsibility, was virtually disqualified as regards this tax on the family income, even if she herself had a personal income.

The husband was the sole partner to sign the income-declaration, and therefore the only partner to be regarded as a taxpayer. Both partners are now regarded as taxpayers, and each must sign the declaration form, thus eliminating this form of discrimination.

2.1.7. A bill concerning the "protection and defence of maternity" was recently approved in outline. This bill, which has not yet been approved in detail or promulgated, is intended to consolidate in a single document previous legislation currently to be found in a number of different texts.

The bill has the merit of covering the principle of equality perfectly. It protects maternity during the cycle of pregnancy, confinement and lactation by according special treatment to the woman, while ensuring that both parents, father and mother, have absolutely the same rights in the period during which the children are being raised.

2.2. FURTHER MEASURES, OTHER THAN LEGISLATION, AIMED AT ELIMINATING DISCRIMINATION ON GROUNDS OF SEX, IN ACCORDANCE WITH THE PROVISIONS OF THE CONVENTION

There are three institutional structures, already operating at the date of ratification of the Convention, which act as vehicles for implementing the measures which have continued to be taken in Portugal since ratification in order to achieve legal equality between men and women by eliminating de facto discrimination and the traditional stereotyped roles which persist in some sectors of our society.

One of these is the Commission on the Status of Women, which is part of the Office of the President of the Council of Ministers and which was set up by Decree-Law No. 485/77 of 17 November; the second is the Commission on Equality in Work and Employment, established in September 1979 and functioning within the Ministry of Labour; and the third is the Parliamentary Commission on the Status of Women, which was established in January 1980.

These institutional structures have played, and continue to play, an essential role in upholding the principles of the Portuguese Constitution regarding the status of women, and they have naturally also made a very valuable contribution to ensuring that the provisions of the Convention are implemented in Portugal.

2.2.1. The Commission for Equality in Work and Employment

The Commission, established by Decree-Law No. 392/79 of 20 September, consists of three officials of the Ministry of Labour, two representatives of the Commission on the Status of Women, three representatives of the trade unions and three representatives of the employers' associations.

In accordance with article 15, this Commission is authorized to recommend to the Ministry of Labour the adoption of legislative, regulatory and administrative measures aimed at improving implementation of the norms contained in this Decree-Law; to promote studies and research with a view to eliminating discrimination against women in work and employment; to promote and give impetus to all activities aimed at ensuring that women enjoy equality with men in job opportunities and conditions of work and employment; to approve recommendations on equality in work and employment which may be submitted to them; and to publicize cases in which discrimination in this regard against women is substantiated.

In carrying out its functions the Commission will submit its recommendations to the Ministry of Labour, having prepared studies and given its opinion on specific cases, at the request of persons who consider themselves discriminated against in work or employment.

2.2.2. The Parliamentary Commission on the Status of Women

This body has the task of making Members of Parliament aware of the problem of the status of women, and of giving its opinion on new legislation submitted for appraisal to the Assembly of the Republic; particularly in the case of the Convention on the Elimination of All Forms of Discrimination against Women and its prompt ratification, the Commission has made a valuable contribution by stating its views on this document.

2.2.3. The Commission on the Status of Women

This body is part of the Office of the President of the Council of Ministers and is responsible to the Prime Minister or to a member of the Government authorized by the Prime Minister.

One of the departments of the Commission is the Advisory Council, which consists of an interministerial section incorporating representatives of the various government departments and a non-governmental organizations section drawn from organizations representing women, which aims to promote all forms of awareness among Portuguese women and to eliminate the discrimination to which they are subject in order to enable them to become part of the process of transforming Portuguese society in accordance with the principles enshrined in our Constitution.

The Commission operates on an inter-sectoral basis and has legal competence, conferred upon it by Decree-Law No. 485/77 of 17 November, in all questions relating to women; it has promoted, and continues to engage in, activities along the lines established for States Parties by the Convention.

It may be mentioned by way of example that the Commission on the Status of Women is in the process of planning a project for primary school teachers on "changing attitudes" in collaboration with the Ministry of Education. This is fully in harmony with the provisions in article 5 of the Convention.

A further responsibility of the Commission on the Status of Women is to make women aware of their rights; a survey on the national birthrate has been concluded and the Commission is responsible for carrying out a number of programmes aimed at giving the widest possible publicity to family planning.

The Commission on the Status of Women has itself participated in various international meetings, giving it an opportunity to express its views publicly on policy-making at the international level on behalf of women.

## 3. FACTORS AND DIFFICULTIES AFFECTING IMPLEMENTATION OF THE OBLIGATIONS IMPOSED BY THE CONVENTION

3.1. The following comments may be made in connection with the legislation which has been promulgated and which was referred to in section 2.1 of this report:

Up to now, difficulties have been encountered in implementing the provisions of the Advertising Code, since none of the sanctions laid down by the Code have been applied. The Advertising Code also provides for the establishment of an Advertising Council which, however, has not yet become operational.

The Commission on the Status of Women will provide logistical and technical assistance for a seminar on the image of women in advertising to take place in 1983 under the auspices of women's non-governmental organizations belonging to the Advisory Council of the Commission. One of the aims of the seminar will be to ensure that the Advertising Code is in fact applied in practice.

In addition, as was mentioned earlier, the regulations for implementing Decree-Law No. 503/80 of 20 October, which is a framework law for the family, have not yet been established, so that the provisions of that Law remain somewhat theoretical.

3.2. IN THE FIELD OF EDUCATION, women's choice of profession continues to be determined either by tradition or by the actual conditions of the labour market; in fact, and in practice, discrimination continues to exist, despite its total absence from the curricula and despite the fact that a balance has aready been achieved between boys and girls at all levels of schooling.

3.3. AS REGARDS EQUALITY IN WORK AND EMPLOYMENT, the major difficulty in achieving that goal in real and effective terms is the current economic crisis.

In fact, most of the unemployed, apart from young people, are women, who in practice are subject to discrimination in their access to employment.

Moreover, the legislation in Portugal on short-term contracts creates quite specific problems for women, in that it enables employers not to renew a contract at the end of its term in circumstances where dismissal would be totally prohibited by law under the legislation on protection of maternity.

At the intermediate stage of development in which our country still finds itself, other problems affecting women result from the lack of facilities for child-care and families.

3.4. OBSTACLES TO THE PARTICIPATION OF WOMEN IN POLITICAL AND CIVIC LIFE

These obstacles are not the result of legal circumstances, but primarily of social and cultural factors: women themselves are at present very apathetic and

In this connection we should, however, point out that there are no specific measures aimed at promoting wider participation of women.

3.5. Despite the action already taken, discrimination still takes many forms, attributable to women's lack of awareness of such discrimination and of their own rights, and to the persistence in our society and our families of stereotyped ideas of cultural origin regarding the traditional roles of men and women.

## 4. CONCLUSION

The conclusion can therefore be drawn that, despite the fact that the Portuguese legal system is in conformity with the principles of the Convention and that progress has indeed been made since ratification in eliminating discrimination against women, such discrimination is still to be found in practice. It will take a long time to eliminate it once and for all from Portuguese society.

From the foregoing it becomes clear that the obstacles confronting us in eliminating discrimination derive from economic, social and cultural factors.

In Portugal, like everywhere else in the world, effective elimination of discrimination against women also depends on a change in economic, social and cultural conditions and on citizens being aware of the importance of the problem.

LEGISLATION

ANNEX I

1. Decree-Law No. 392/79 of 20 September;
2. Decree-Law No. 49408 of 21 November 1964;
3. Decree-Law No. 197/77 of 17 May;
4. Decree-Law No. 496/77 of 25 November;
5. Civil Code. Various articles, 1601; 1604; 1671 to 1678; 1682-A and B; 1901 to 1912; 2020;
6. Law No. 2098 of 29 July 1959;
7. Law No. 37/81 of 30 October;
8. Decree-Law No. 421/80 of 30 September;
9. Decree-Law No. 503/80 of 20 October;
10. Decree No. 89/81 of 14 July;
11. Decree No. 183/F/80 of 9 July;
12. Decree-Law No. 485/77 of 17 November;
13. Decree-Law No. 112/76 of 7 February;
14. Decree No. 89/81 of 14 July.

ANNEX II

1976 Constitution of the Portuguese Republic;

ANNEX III

Constitution of the Portuguese Republic. First revision, 1982;

ANNEX IV

Dossier on the status of women in Portugal.